



# Carriage by Air Act 1961

## 1961 CHAPTER 27 9 and 10 Eliz 2

An Act to give effect to the Convention concerning international carriage by air known as “the Warsaw Convention as amended at The Hague, 1955”, to enable the rules contained in that Convention to be applied, with or without modification, in other cases and, in particular, to non-international carriage by air; and for connected purposes. [22nd June 1961]

### Modifications etc. (not altering text)

- C1 Act saved by [Nuclear Installations Act 1965 \(c. 57\)](#), s. 12(4)(b)
- C2 Power to apply Act given by [Hovercraft Act 1968 \(c. 59\)](#), [s. 1\(1\)\(i\)](#)
- C3 Act applied with modifications (in relation to hovercraft) by [S. I. 1986/1305](#), arts. 3, 5, [Sch. 1](#)
- C4 Act applied (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), [art. 8](#) (with arts. 1(3), 3)

### [<sup>F1</sup>1 Convention to have the force of law

- (1) The applicable provisions of the Carriage by Air Conventions have the force of law in the United Kingdom in relation to any carriage by air to which they apply, irrespective of the nationality of the aircraft performing that carriage.
- (2) Subsection (1) does not apply in relation to [<sup>F2</sup>UK air carriers] to the extent that the provisions of the Council Regulation have the force of law in the United Kingdom.
- (3) Subsection (1) is subject to the other provisions of this Act.
- (4) If more than one of the Carriage by Air Conventions applies to a carriage by air, the applicable provisions that have the force of law in the United Kingdom are those of whichever is the most recent applicable Convention in force.
- (5) The Carriage by Air Conventions are—
  - (a) the Convention known as “the Warsaw Convention as amended at The Hague, 1955” (“the Convention”);
  - (b) that Convention as further amended by Protocol No. 4 of Montreal, 1975 (“the Convention as amended”); and

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Changes to legislation: Carriage by Air Act 1961 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (c) the Convention known as “the Montreal Convention 1999” (“the Montreal Convention”).
- (6) “The applicable provisions” means—
- (a) the provisions of the Convention set out in Schedule 1,
  - (b) the provisions of the Convention as amended set out in Schedule 1A, and
  - (c) the provisions of the Montreal Convention set out in Schedule 1B,
- so far as they relate to the rights and liabilities of carriers, carriers’ servants and agents, passengers, consignors, consignees and other persons.
- (7) In this Act a reference to an Article of, or Protocol to, any of the Carriage by Air Conventions is a reference to that Article or Protocol as it appears in the Schedule in which it is set out.
- (8) If there is any inconsistency between the text in English in Part I of Schedule 1 or 1A and the text in French in Part II of that Schedule, the French text shall prevail.]

#### Textual Amendments

- F1** S. 1 substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), **art. 2(2)** (with art. 1(3))
- F2** Words in s. 1(2) substituted (31.12.2020) by [The Air Passenger Rights and Air Travel Organisers Licensing \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/278\)](#), regs. 1(3), **2(2)**; 2020 c. 1, Sch. 5 para. 1(1)

## 2 Designation of High Contracting Parties.

- (1) Her Majesty may by Order in Council from time to time certify who are [<sup>F3</sup> either generally or in respect of specified matters,] the High Contracting Parties to [<sup>F4</sup> any of the Carriage by Air Conventions], in respect of what territories they are respectively parties and to what extent they have availed themselves of the provisions of
- (a) [<sup>F5</sup> the Additional Protocol at the end of the Convention;
  - (b) the Additional Protocol at the end of the Convention as amended; or
  - (c) Article 57(a) of the Montreal Convention.]
- [<sup>F6</sup>(1A) Her Majesty may by Order in Council certify any revision of the limits of liability established under the Montreal Convention.]
- [<sup>F7</sup>(2) The provisions of the Carriage by Air Conventions mentioned in subsection (2A) shall not be read as extending references in the applicable provisions to the territory of a High Contracting Party (except such as are references to the territory of any State, whether a High Contracting Party or not) to include any territory in respect of which that High Contracting Party is not a party.
- (2A) The provisions are—
- (a) Article 40A(2) of the Convention;
  - (b) Article 40A(2) of the Convention as amended; and
  - (c) paragraph 1 of Article 56 of the Montreal Convention.]
- (3) An Order in Council under this section shall, except so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.

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- (4) An Order in Council under this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient.

#### Textual Amendments

- F3** Words inserted (*prosp.*) with saving by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), ss. 1(2)(3), 7(2), [Sch. 2 para. 2](#)
- F4** Words in [S. 2\(1\)](#) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), [art. 2\(3\)\(a\)](#) (with [art. 1\(3\)](#))
- F5** Words in [s. 2\(1\)](#) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), [art. 2\(3\)\(b\)](#) (with [art. 1\(3\)](#))
- F6** [S. 2\(1A\)](#) inserted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), [art. 2\(4\)](#) (with [art. 1\(3\)](#))
- F7** [S. 2\(2\)\(2A\)](#) substituted for [s. 2\(2\)](#) (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), [art. 2\(5\)](#) (with [art. 1\(3\)](#))

#### Modifications etc. (not altering text)

- C5** [S. 2](#) applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 5(1)(2), [Sch. 2](#) (with arts. 1(3), 3)
- C6** [S. 2](#) applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 6(1)(2), [Sch. 3](#) (with arts. 1(3), 3)

### 3 Fatal accidents.

References in section one of the <sup>M1</sup>Fatal Accidents Act, 1846, as it applies in England and Wales, and [<sup>F8</sup>in Article 3(1) of the Fatal Accidents (Northern Ireland) Order 1977] to a wrongful act, neglect or default shall include references to any occurrence which gives rise to a liability under [<sup>F9</sup>—

- (a) Article 17 of the Convention;  
(b) Article 17 of the Convention as amended; or  
(c) Article 17.1 of the Montreal Convention.]

#### Textual Amendments

- F8** Words substituted by [S.I. 1977/1251](#), [Sch. 1](#).
- F9** Words in [s. 3](#) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), [art. 2\(6\)](#) (with [art. 1\(3\)](#))

#### Modifications etc. (not altering text)

- C7** [S. 3](#) amended with saving by [Fatal Accidents Act 1976 \(c. 30\)](#), s. 7(2), [Sch. 1 para. 2\(2\)](#)
- C8** [S. 3](#) applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(2), [Sch. 2](#), [Sch. 3](#) (with arts. 1(3), 3)
- C9** [S. 3](#) applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(1), [Sch. 1](#) (with arts. 1(3), 3)

#### Marginal Citations

- M1** 1846 c. 93.

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#### 4 Limitation of liability.

[<sup>F10</sup>(1) It is hereby declared that the limitations on liability in the applicable provisions mentioned in subsection (1A) apply whatever the nature of the proceedings by which liability may be enforced.

(1A) The provisions are—

- (a) Article 22 of the Convention;
- (b) Article 22 of the Convention as amended; and
- (c) Articles 21 and 22 of the Montreal Convention.

(1B) The limitation for each passenger in—

- (a) paragraph (1) of Article 22 of the Convention or of the Convention as amended, and
- (b) Article 21 and paragraph (1) of Article 22 of the Montreal Convention,

applies to the aggregate liability of the carrier in all proceedings which may be brought against him under the law of any part of the United Kingdom, together with any proceedings brought against him outside the United Kingdom.]

(2) A court before which proceedings are brought to enforce a liability which is limited by [<sup>F11</sup>a provision mentioned in subsection (3A)] [<sup>F12</sup>or Article 22A] may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of [<sup>F13</sup>that provision], and of any other proceedings which have been, or are likely to be, commenced in the United Kingdom or elsewhere to enforce the liability in whole or in part.

(3) Without prejudice to the last foregoing subsection, a court before which proceedings are brought to enforce a liability which is limited by [<sup>F14</sup>a provision mentioned in subsection (3A)] [<sup>F12</sup>or Article 22A] shall, where the liability is, or may be, partly enforceable in other proceedings in the United Kingdom or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court, or to make any part of its award conditional on the result of any other proceedings.

[<sup>F15</sup>(3A) The provisions are—

- (a) Article 22 of the Convention;
- (b) Article 22 of the Convention as amended; and
- (c) Articles 21, 22 and 44 of the Montreal Convention.]

[<sup>F16</sup>(4) The Minister of Aviation may from time to time by order made by statutory instrument specify the respective amounts which for the purposes of the said Article 22, and in particular of paragraph (5) of that Article, are to be taken as equivalent to the sums expressed in francs which are mentioned in that Article.]

(5) References in this section to the said Article 22 [<sup>F17</sup>of the Convention or of the Convention as amended] [<sup>F18</sup>and Article 22A] include, subject to any necessary modifications, references to that Article as applied by Article 25A [<sup>F19</sup>of the Convention].

#### Textual Amendments

**F10** S. 4(1) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(7) (with art. 1(3))

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- F11** Words in s. 4(2) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(8)(a)** (with art. 1(3))
- F12** Words inserted (*prosp.*) with saving by Carriage by Air and Road Act 1979 (c.28, SIF 9), s. 1(2)(3), 7(2), **Sch. 2 para. 4(a)**
- F13** Words in s. 4(2) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(8)(b)** (with art. 1(3))
- F14** Words in s. 4(3) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(9)** (with art. 1(3))
- F15** S. 4(3A) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(10)** (with art. 1(3))
- F16** S. 4(4) repealed (*prosp.*) with saving by Carriage by Air and Road Act 1979 (c. 28, SIF 9), s. 1(2)(3), 6(4)(a), 7(2), Sch. 2 para. 4(c)
- F17** Words in s. 4(5) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(11)(a)**
- F18** Words inserted (*prosp.*) with saving by Carriage by Air and Road Act 1979 (c. 28, SIF 9), s. 1(2)(3), 7(2), **Sch. 2 para. 4(a)**
- F19** Words in s. 4(5) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(11)(b)**

#### Modifications etc. (not altering text)

- C10** S. 4 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 7(2), Sch. 2, **Sch. 3** (with arts. 1(3), 3)
- C11** S. 4 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 7(1), **Sch. 1** (with arts. 1(3), 3)
- C12** S. 4(2)(3) amended by Carriage by Air (Supplementary Provisions) Act (c. 43), s. 3(1)
- C13** Functions of Minister of Aviation under this Act now exercisable by Secretary of State concurrently with Board of Trade: S.I. 1966/741 and 1970/1537

#### [<sup>F20</sup>4A Notice of partial loss.

- (1) [<sup>F21</sup>References to damage in the provisions mentioned in subsection (2)] shall be construed as including loss of part of the baggage or cargo in question and the reference to the receipt of baggage or cargo shall, in relation to loss of part of it, be construed as receipt of the remainder of it.

[ The provisions are—

- <sup>F22</sup>(2) (a) Article 26(2) of the Convention;  
(b) Article 26(2) of the Convention as amended; and  
(c) Article 31(2) of the Montreal Convention.]

#### Textual Amendments

- F20** S. 4A inserted (with saving) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), s. 2(1)(2)
- F21** Words in s. 4A(1) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(12)** (with art. 1(3))
- F22** S. 4A(2) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(13)** (with art. 1(3))

#### Modifications etc. (not altering text)

- C14** S. 4A applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 7(2), Sch. 2, **Sch. 3** (with arts. 1(3), 3)

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**C15** S. 4A applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(1), **Sch. 1** (with arts. 1(3), 3)

## 5 Time for bringing proceedings. **E+W+N.I.**

- (1) No action against a carrier's servant or agent which arises out of damage to which [<sup>F23</sup>any of the Carriage by Air Conventions applies] shall, if he was acting within the scope of his employment, be brought after more than two years, reckoned from the date of arrival at the destination or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
- (2) [<sup>F24</sup>The provisions mentioned in subsection (4)] not be read as applying to any proceedings for contribution between, [<sup>F25</sup>persons liable for any damage to which [<sup>F26</sup>any of the Carriage by Air Conventions] relates][<sup>F27</sup>but no action shall be brought by a tortfeasor to obtain a contribution from a carrier in respect of a tort to which the said Article 29 applies after the expiration of two years from the time when judgment is obtained against the person seeking to obtain the contribution.]
- (3) [<sup>F28</sup>Subsections (1) and (2) and the provisions mentioned in subsection (4)] have effect as if references in those provisions to an action included references to [<sup>F29</sup>arbitral proceedings]; [<sup>F30</sup>and the provisions of section 14 of the Arbitration Act 1996 apply to determine when such proceedings are commenced.]
- [<sup>F31</sup>(4) The provisions are—
- (a) Article 29 of the Convention;
  - (b) Article 29 of the Convention as amended; and
  - (c) Article 35 of the Montreal Convention.
- (5) If the Montreal Convention applies, "carrier" in this section includes an actual carrier as defined by Article 39 of that Convention.]

### Extent Information

**E1** This version of this provision extends to England, Wales and Northern Ireland only; a separate version has been created for Scotland only

### Textual Amendments

- F23** Words in s. 5(1) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), **art. 2(14)** (with [art. 1\(3\)](#))
- F24** Words in s. 5(2) substituted (coming into force in accordance with art. 1(2)) by virtue of [S.I. 2002/263](#), **art. 2(15)(a)** (with [art. 1\(3\)](#))
- F25** Words substituted (E. W. N. I.) by [Civil Liability \(Contribution\) Act 1978 \(c. 47, SIF 122:3\)](#), s. 9, **Sch. 1 para. 5(2)** (subject to savings in s. 5 in relation to Her Majesty and the Duchy of Cornwall and in s. 7 in relation to debts due or damage occurring before the commencement of the Act)
- F26** Words in s. 5(2) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), **art. 2(15)(b)** (with [art. 1\(3\)](#))
- F27** Words repealed (E.W.) with saving by [Limitation Act 1963 \(c. 47\)](#), **ss. 4(4)(5)**, 10(5) and repealed and superseded (N.I.) by [Limitation Act \(Northern Ireland\) 1946 \(c. 1\)](#), **s. 4(4)(b)**
- F28** Words in s. 5(3) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), **art. 2(16)** (with [art. 1\(3\)](#))
- F29** Words in s. 5(3) substituted (31.1.1997) by [1996 c. 23](#), s. 107(1), **Sch. 3 para. 13(2)(a)**; [S.I. 1996/3146](#), **art. 3**

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- F30** Words in s. 5(3) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 13(2)(b)**; S.I. 1996/3146, **art. 3**
- F31** S. 5(4)(5) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(17)** (with art. 1(3))

**Modifications etc. (not altering text)**

- C16** S. 5 amended by Carriage by Air (Supplementary Provisions) Act 1962 (c. 43, SIF 9), **s. 3(2)**
- C17** S. 5 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 5(1)(3), **Sch. 2** (with arts. 1(3), 3)
- C18** S. 5 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 6(1)(3), **Sch. 3** (with arts. 1(3), 3)

**5 Time for bringing proceedings. S**

- (1) No action against a carrier's servant or agent which arises out of damage to which [<sup>F310</sup>any of the Carriage by Air Conventions applies] shall, if he was acting within the scope of his employment, be brought after more than two years, reckoned from the date of arrival at the destination or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
- (2) [<sup>F311</sup>The provisions mentioned in subsection (4)] not be read as applying to any proceedings for contribution between tortfeasors, <sup>F312</sup> . . .
- (3) [<sup>F313</sup>Subsections (1) and (2) and the provisions mentioned in subsection (4)] have effect as if references in those provisions to an action included references to [<sup>F314</sup>arbitral proceedings]; [<sup>F315</sup>and the provisions of section 14 of the Arbitration Act 1996 apply to determine when such proceedings are commenced.].
- [<sup>F316</sup>(4) The provisions are—
- (a) Article 29 of the Convention;
  - (b) Article 29 of the Convention as amended; and
  - (c) Article 35 of the Montreal Convention.
- (5) If the Montreal Convention applies, "carrier" in this section includes an actual carrier as defined by Article 39 of that Convention.]

**Extent Information**

- E2** This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only

**Textual Amendments**

- F310** Words in s. 5(1) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(14)** (with art. 1(3))
- F311** Words in s. 5(2) substituted (coming into force in accordance with art. 1(2)) by virtue of S.I. 2002/263, **art. 2(15)(a)** (with art. 1(3))
- F312** Words repealed (S.) with saving by **Limitation Act 1963 (c. 47), ss. 4(4)(5), 10(5)** and repealed and superseded (N.I.) by **Limitation Act (Northern Ireland) 1946 (c. 1), s. 4(4)(b)**
- F313** Words in s. 5(3) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(16)** (with art. 1(3))
- F314** Words in s. 5(3) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 13(2)(a)**; S.I. 1996/3146, **art. 3**

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- F315** Words in s. 5(3) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 13(2)(b)**; S.I. 1996/3146, **art. 3**
- F316** S. 5(4)(5) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(17)** (with art. 1(3))

**Modifications etc. (not altering text)**

- C17** S. 5 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 5(1)(3), **Sch. 2** (with arts. 1(3), 3)
- C18** S. 5 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 6(1)(3), **Sch. 3** (with arts. 1(3), 3)
- C34** S. 5 amended by [Carriage by Air \(Supplementary Provisions\) Act 1962 \(c. 43, SIF 9\)](#), s. 3(2)

**6 Contributory negligence.**

<sup>F32</sup>(1) It is hereby declared that for the purposes of [<sup>F33</sup>the provisions mentioned in subsection (2)] the <sup>M2</sup>Law Reform (Contributory Negligence) Act 1945 (including that Act as applied to Scotland), and section two of the <sup>M3</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948, are provisions of the law of the United Kingdom under which a court may exonerate the carrier wholly or partly from his liability.

[<sup>F34</sup>(2) The provisions are—

- (a) Article 21 of the Convention;
- (b) Article 21 of the Convention as amended; and
- (c) Article 20 of the Montreal Convention.]

**Textual Amendments**

- F32** S. 6: the existing provision becomes subsection (1) (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(18)(a)** (with art. 1(3))
- F33** Words in s. 6 substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(18)(b)** (with art. 1(3))
- F34** S. 6(2) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(19)** (with art. 1(3))

**Modifications etc. (not altering text)**

- C19** S. 6 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(2), **Sch. 2, Sch. 3** (with arts. 1(3), 3)
- C20** S. 6 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(1), **Sch. 1** (with arts. 1(3), 3)

**Marginal Citations**

- M2** 1945 c. 28.
- M3** 1948 c. 23 (N.I.)

**7 Power to exclude aircraft in use for military purposes.**

(1) Her Majesty may from time to time by Order in Council direct that this section shall apply, or shall cease to apply, to the United Kingdom or any other State specified in the Order.



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- (2) The [<sup>F35</sup>the applicable provisions] to this Act shall not apply to the carriage of persons, cargo and baggage for the military authorities of a State to which this section applies in aircraft registered in that State if the whole capacity of the aircraft has been reserved by or on behalf of those authorities.

#### Textual Amendments

**F35** Words in s. 7 substituted (coming in force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(20) (with art. 1(3))

#### [<sup>F368</sup> Actions against parties to Conventions.

- (1) Each party to a Carriage by Air Convention, for the purposes of any action brought in a court in the United Kingdom in accordance with a provision mentioned in subsection (5) to enforce a claim in respect of carriage undertaken by him, is deemed to have submitted to the jurisdiction of that court.
- (2) Accordingly, rules of court may provide for the manner in which any such action is to be commenced and carried on.
- (3) But nothing in this section shall authorise the issue of execution against the property of any party to a Carriage by Air Convention.
- (4) Subsections (1) and (2) do not apply to a party to a Carriage by Air Convention who has availed himself, in relation to a provision mentioned in subsection (5), of—
- the Additional Protocol at the end of the Convention,
  - the Additional Protocol at the end of the Convention as amended; or
  - Article 57(a) of the Montreal Convention.
- (5) The provisions are—
- Article 28 of the Convention;
  - Article 28 of the Convention as amended;
  - Articles 33 and 46 of the Montreal Convention.
- (6) “Party” means—
- in relation to the Convention and the Convention as amended, a High Contracting Party; and
  - in relation to the Montreal Convention, a State Party.]

#### Textual Amendments

**F36** S. 8 substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(21) (with art. 1(3))

#### Modifications etc. (not altering text)

- C21** S. 8 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 6(1)(4), Sch. 3 (with arts. 1(3), 3)
- C22** S. 8 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 5(1)(4), Sch. 2 (with arts. 1(3), 3)

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### [<sup>F37</sup>8A Amendments consequential on revision of Convention.

- (1) If at any time it appears to Her Majesty in Council that Her Majesty's Government in the United Kingdom have agreed to a revision of the Convention, Her Majesty may by Order in Council [<sup>F38</sup>make such amendments of this Act, the Carriage by Air (Supplementary Provisions) Act 1962 and section 5(1) of the Carriage by Air and Road Act 1979] as Her Majesty considers appropriate in consequence of the revision.
- (2) In the preceding subsection "revision" means an omission from, addition to or alteration of the Convention and includes replacement of the Convention or part of it by another convention.
- (3) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.]

#### Textual Amendments

- F37** S. 8A inserted (22.10.1998) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), s. 3(1); S.I. 1998/2562, art. 2
- F38** Words substituted by International Transport Conventions Act 1983 (c. 14, SIF 102), s. 9, Sch. 2 para. 1

#### Modifications etc. (not altering text)

- C23** S. 8A amended (12.10.2000) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), s. 6(1)(a); S.I. 2000/2768, art. 2

## 9 Application to British possessions, etc.

- (1) Her Majesty may by Order in Council direct that this Act shall extend, subject to such exceptions, adaptations and modifications as may be specified in the Order, to—
  - (a) the Isle of Man;
  - (b) any of the Channel Islands;
  - (c) any colony or protectorate, protected state or United Kingdom trust territory.
 The references in this subsection to a protectorate, to a protected state and to a United Kingdom trust territory shall be construed as if they were references contained in the <sup>M4</sup>British Nationality Act 1948.
- (2) An Order in Council under this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient, and may be varied or revoked by a subsequent Order in Council.

#### Modifications etc. (not altering text)

- C24** S. 9 extended by Carriage by Air (Supplementary Provisions) Act 1962 (c. 43), s. 5(1)
- C25** Ss. 9, 10 amended (12.10.2000) by Carriage by Air and Road Act 1979(c. 28, SIF 9), s. 6(1)(a); S.I. 2000/2768, art. 2

#### Marginal Citations

- M4** 1948 c. 56.

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## 10 Application to carriage by air not governed by Convention.

- (1) Her Majesty may by Order in Council apply [<sup>F39</sup>the applicable provisions of any of the Carriage by Air Conventions], together with any other provisions of this Act, to carriage by air, not being carriage by air to which the [<sup>F40</sup>Convention in question]applies, of such descriptions as may be specified in the Order, subject to such exceptions, adaptations and modifications, if any, as may be so specified.
- (2) An Order in Council under this section may be made to apply to any of the countries or places mentioned in paragraphs (a), (b) and (c) of subsection (1) of the last foregoing section.
- (3) An Order in Council under this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient, and may confer any functions under the Order on a Minister of the Crown in the United Kingdom or on any Governor or other authority in any of the countries or places mentioned in paragraphs (a), (b) and (c) of subsection (1) of the last foregoing section, including a power to grant exemptions from any requirements imposed by such an Order.
- (4) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.
- (5) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament:

Provided that this subsection shall not apply to an Order which applies only to the Isle of Man or all or any of the Channel Islands.

### Textual Amendments

- F39** Words in s. 10 substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(22)(a) (with art. 1(3))
- F40** By S.I. 2002/263, art. 2(22)(b) (with art. 1(3)) it is provided that the words in s. 10, “Convention in question”, are substituted for the words “Convention or Convention as amended” (coming into force in accordance with art. 1(2))

### Modifications etc. (not altering text)

- C26** Ss. 9, 10 amended (12.10.2000) by Carriage by Air and Road Act 1979(c. 28, SIF 9), s. 6(1)(a); 2000/2768, art. 2
- C27** S. 10 extended by Carriage by Air (Supplementary Provisions) Act 1962 (c. 43), s. 5(2)

## 11 Application to Scotland.

In the application of this Act to Scotland—

- (a) there shall be substituted—
  - (i) ..... <sup>F41</sup>
  - (ii) for any reference to a tortfeasor, a reference to a person who has been or might be held liable for loss or damage arising from any such act or omission;
  - (iii) .....
  - (iv) for any reference to the issuing of execution, a reference to the execution of diligence;
  - (v) for any reference to an arbitrator, a reference to an arbiter; and

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- (vi) for any reference to a plaintiff, a reference to a pursuer;  
(b) for section three there shall be substituted the following section—

**“3 Fatal accidents.**

The reference in [<sup>F42</sup>—

- (a) Article 17 of the Convention,  
(b) Article 17 of the Convention as amended, and  
(c) Article 17.1 of the Montreal Convention,]

to the liability of a carrier for damage sustained in the event of the death of a passenger shall be construed as including liability to such persons as are entitled, apart from this Act, to sue the carrier (whether for patrimonial damage or solatium or both) in respect of the death.”;

- (c) in section five, subsection (1) shall have effect notwithstanding anything in [<sup>F43</sup>section 17 of the <sup>M5</sup>Prescription and Limitation (Scotland) Act 1973]; and in subsection (3), for the words from “and [<sup>F44</sup>the provisions of section 14 of the Arbitration Act 1996]” to the end of the subsection there shall be substituted the words “and for the purpose of this subsection [<sup>F45</sup>arbitral proceedings] shall be deemed to be commenced when one party to the arbitration serves on the other party or parties a notice requiring him or them to appoint an arbiter or to agree to the appointment of an arbiter, or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated.”

**Textual Amendments**

- F41** s. 11 (a)(i)(iii) repealed by [Limitation Act 1963 \(c. 47\), s. 10\(5\)](#)  
**F42** Words in s. 11(b) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263, art. 2\(23\)](#) (with art. 1(3))  
**F43** Words substituted by [Prescription and Limitation \(Scotland\) Act 1973 \(c. 52\), Sch. 4 Pt. II](#)  
**F44** Words in s. 11(c) substituted (31.1.1997) by 1996 c. 23, s. 107(1), [Sch. 3 para. 13\(3\)\(a\)](#); [S.I. 1996/3146, art. 3](#)  
**F45** Words in s. 11(c) substituted (31.1.1997) by 1996 c. 23, s. 107(1), [Sch. 3 para. 13\(3\)\(b\)](#); [S.I. 1996/3146, art. 3](#)

**Modifications etc. (not altering text)**

- C28** S. 11 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(1), [Sch. 1](#) (with arts. 1(3), 3)  
**C29** S. 11 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(2), [Sch. 2, Sch. 3](#) (with arts. 1(3), 3)

**Marginal Citations**

- M5** 1973 c. 52.

**12 Application to Northern Ireland.**

In the application of this Act to Northern Ireland any reference to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed as a reference to that enactment as amended by any Act of

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that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modification.

**Modifications etc. (not altering text)**

- C30** S. 12 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(1), **Sch. 1** (with arts. 1(3), 3)
- C31** S. 12 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(2), Sch. 2, **Sch. 3** (with arts. 1(3), 3)

**13 Application to Crown.**

This Act shall bind the Crown.

**14 Short title, interpretation and repeals.**

(1) This Act may be cited as the Carriage by Air Act 1961.

[<sup>F46</sup>(2) in this Act—

“the applicable provisions” has the meaning, given in section 1(6);  
“the Carriage by Air Conventions” has the meaning given in section 1(5);  
“the Convention”, “the Convention as amended” and “the Montreal Convention” have the meaning given in section 1(5);

[<sup>F47</sup>“the Council Regulation” means Council Regulation (EC) No. 2027/97 as amended by Regulation (EC) No. 889/2002 of the European Parliament and of the Council as it has effect in accordance with the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 as amended by the Decisions of the EEA Joint Committee No. 34/98 of 30th April 1998 and No. 142/2002 of 8th November 2002;]

<sup>F48</sup>  
...

“court” includes (in an arbitration allowed by the Convention) an arbitrator.]]<sup>F49</sup>;  
and

“UK air carrier” has the meaning given by Article 2 of the Council Regulation]

<sup>F50</sup>(3) .....

**Textual Amendments**

- F46** S. 14(2) substituted (coming in force in accordance with art. 1(2)) by [S.I. 2002/263](#), **art. 2(24)** (with art. 1(3))
- F47** Words in s. 14 substituted (28.6.2004) by [The Air Carrier Liability Regulations 2004 \(S.I. 2004/1418\)](#), regs. 1, **5**
- F48** Words in s. 14(2) omitted (31.12.2020) by virtue of [The Air Passenger Rights and Air Travel Organisers Licensing \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/278\)](#), regs. 1(3), **2(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F49** Words in s. 14(2) inserted (31.12.2020) by [The Air Passenger Rights and Air Travel Organisers Licensing \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/278\)](#), regs. 1(3), **2(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

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**F50** S. 14(3) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 4**

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## SCHEDULES

### [<sup>X1</sup>FIRST SCHEDULE

Section 1.

#### THE WARSAW CONVENTION WITH THE AMENDMENTS MADE IN IT BY THE HAGUE PROTOCOL

##### Editorial Information

- X1** [Schedule 1](#), containing the provisions of the Warsaw Convention as amended at the Hague in 1955 and by Protocols No. 3 and No. 4 signed at Montreal in 1975, substituted (*prosp.*) with saving for Schedule 1 as originally enacted, containing the provisions of the Warsaw Convention with the amendments made in it by the Hague Protocol, by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), **ss. 1(1)(3), 6(2), 7(2)**

### PART I

#### THE ENGLISH TEXT

#### CONVENTION

FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR

### CHAPTER 1

#### SCOPE—DEFINITIONS

##### *Article 1*

- (1) This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.
- (2) For the purposes of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories or two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.
- (3) Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international

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character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

### Article 2

- (1) This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.
- (2) This Convention shall not apply to carriage of mail and postal packages.

## CHAPTER II

### DOCUMENTS OF CARRIAGE

#### Section 1.—Passenger Ticket

#### Article 3

- (1) In respect of the carriage of passengers a ticket shall be delivered containing:
  - (a) an indication of the places of departure and destination;
  - (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, and indication of at least one such stopping place;
  - (c) a notice to the effect that, if the passenger's journey involves 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 for death or personal injury and in respect of loss of or damage to baggage.
- (2) The passenger ticket shall constitute *prima facie* evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph (1) (c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.

#### Section 2—Baggage Check

#### Article 4

- (1) In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, paragraph (1), shall contain:
  - (a) an indication of the places of departure and destination;
  - (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
  - (c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be



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applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage.

- (2) The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, non the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, Paragraph (1) (c)) does not include the notice required by paragraph (1) (c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph (2).

### Section 3.—Air Waybill

#### Article 5

- (1) Every carrier of cargo 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 does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less 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 cargo.
- (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 cargo. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.
- (3) The carrier shall sign prior to the loading of the cargo on board the aircraft.
- (4) The signature of the carrier may be stamped; that of the consignor may 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 done so on behalf of the consignor.

#### Article 7

The carrier of cargo has the right to require the consignor to make out separate waybills when there is more than one package.

#### Article 8

The air waybill shall contain:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- (c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw

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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, 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 provisions of Article 22, paragraph (2).

#### Article 10

- (1) The consignor is responsible for the correctness of the particulars and statements relating to the cargo which he inserts in the air waybill.
- (2) The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.

#### Article 11

- (1) The air waybill is *prima facie* evidence of the conclusion of the contract, of the receipt of the cargo and of the conditions of carriage.
- (2) The statements in the air waybill relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

#### Article 12

- (1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the aerodrome of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring it to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.
- (2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.
- (3) If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.
- (4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the waybill or the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

#### Article 13

- (1) Except in the circumstances set out in the preceding Article, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to hand over to him the air waybill and to deliver the cargo to him, on payment of

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the charges due and on complying with the conditions of carriage set out in the air waybill.

- (2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
- (3) If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

#### *Article 14*

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

#### *Article 15*

- (1) Articles 12, 13 and 14 do not effect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
- (2) The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill.
- (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 police before the cargo can be delivered to the consignee. The consignor is 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 servants or agents.
- (2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

## CHAPTER III

### LIABILITY OF THE CARRIER

#### *Article 17*

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

#### *Article 18*

- (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered baggage or any cargo, if the occurrence which caused the damage so sustained took place during the carriage by air.
- (2) The carriage by air within the meaning of the preceding paragraph comprises the period during which the baggage or cargo is in charge of the carrier, whether in an

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aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

- (3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

#### Article 19

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.

#### Article 20

The carrier is not liable if he proves that he and his servants or agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

#### Article 21

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

#### Article 22

- (1) In the carriage of persons the liability of the carrier for each passenger is limited to the sum of [<sup>F51</sup>16,600 special drawing rights]. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodical payments the equivalent capital value of the said payments shall not exceed [<sup>F52</sup>this limit]. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

#### Textual Amendments

**F51** Words substituted (1.12.1997) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), ss. 4(1)(a)(i)(ii), 6(2); S.I. 1997/2565, art. 2, Sch.

**F52** Words substituted (1.12.1997) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), ss. 4(1)(a)(i)(ii), 6(2); S.I. 1997/2565, art. 2, Sch.

#### Modifications etc. (not altering text)

**C32** Art. 22 of Pt. I (as originally enacted) amended (*prosp.*) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), ss. 5, 6(2), 7(2)

- (2) (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of [<sup>F53</sup>17 special drawing rights] per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

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- (b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

#### Textual Amendments

**F53** Words substituted (1.12.1997) by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), s. **4(1)(a)(i)(ii)**, 6(2); S.I. 1997/2565, art. 2, [Sch.](#)

- (3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to [<sup>F54</sup>332 special drawing rights] per passenger.

#### Textual Amendments

**F54** Words substituted (1.12.1997) by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), ss. **4(1)(a)(i)(ii)**, 6(2); S.I. 1997/2565, art. 2, [Sch.](#)

- (4) The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition , the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

- (<sup>F55</sup>5) The sums mentioned in terms of the special drawing right in this Article shall be deemed to refer to the special drawing right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the special drawing right at the date of the judgment.]

#### Textual Amendments

**F55** para. (5) of Art. 22 Pt. I (second version) substituted (1.12.1997) for para.(5) as originally enacted by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), ss. **4(1)(a)(iii)**; S.I. 1997/2565,art. 2, [Sch.](#)

### Article 23

- (1) Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.
- (2) Paragraph (1) of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

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#### *Article 24*

- (1) In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.
- (2) In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

#### *Article 25*

The limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.

#### *Article 25A*

- (1) If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.
- (2) The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.
- (3) The provisions of paragraphs (1) and (2) of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

#### *Article 26*

- (1) Receipt by the person entitled to delivery of baggage or cargo without complaint is *prima facie* evidence that the same has 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 seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo 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.

#### *Article 27*

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

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#### Article 28

- (1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the court having jurisdiction at the place of destination.
- (2) Questions of procedure shall be governed by the law of the court seized of the case.

#### Article 29

- (1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
- (2) The method of calculating the period of limitation shall be determined by the law of the court seized of the case.

#### Article 30

- (1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.
- (2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.
- (3) As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

### CHAPTER IV

#### PROVISIONS RELATING TO COMBINED CARRIAGE

#### Article 31

- (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.
- (2) Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

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## CHAPTER V

### GENERAL AND FINAL PROVISIONS

#### *Article 32*

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

#### *Article 33*

Nothing contained in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Convention.

#### *Article 34*

The provisions of Articles 3 to 9 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

#### *Article 35*

The expression "days" when used in this Convention means current days not working days.

#### *Article 36*

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

#### *Article 40A*

- (1) *[This paragraph is not reproduced. It defines "High Contracting Part"y.]*
- (2) For the purposes of the Convention the word *territory* means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.

*[Articles 37, 38, 39, 40 and 41 and the concluding words of the Convention are not reproduced. They deal with the coming into force of the Convention.]*

## ADDITIONAL PROTOCOL

*(With reference to Article 2)*

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to



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international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

## PART II

### THE FRENCH TEXT

#### CONVENTION

#### POUR L'UNIFICATION DE CERTAINES REGLES RELATIVES AU TRANSPORT AERIEN INTERNATIONAL

### CHAPITRE IER

#### OBJET—DÉFINITIONS

##### *Article 1er*

- (1) La présente Convention s'applique à tout transport international de personnes, bagages ou marchandises, effectué par aéronef contre rémunération. Elle s'applique également aux transports gratuits effectués par aéronef par une entreprise de transports aériens.
- (2) Est qualifié *transport international*, au sens de la présente Convention, tout transport dans lequel, d'après les stipulations des parties, le point de départ et le point de destination, qu'il y ait ou non interruption de transport ou transbordement, sont situés soit sur le territoire de deux Hautes Parties Contractantes, soit sur le territoire d'une seule Haute Partie Contractante si une escale est prévue sur le territoire d'un autre Etat, même si cet Etat n'est pas une Haute Partie Contractante. Le transport sans une telle escale entre deux points du territoire d'une seule Haute Partie Contractante n'est pas considéré comme international au sens de la présente Convention.
- (3) Le Transport à exécuter par plusieurs transporteurs par air successifs est censé constituer pour l'application de la présente Convention un transport unique lorsqu'il a été envisagé par les parties comme une seule opération, qu'il ait été conclu sous la forme d'un seul contrat ou d'une série de contrats, et il ne perd pas son caractère international par le fait qu'un seul contrat ou une série de contrats doivent être exécutés intégralement dans le territoire d'un même Etat.

##### *Article 2*

- (1) La Convention s'applique aux transports effectués par l'Etat ou les autres personnes juridiques de droit public, dans les conditions prévues à l'article 1er
- (2) La présente Convention ne s'applique pas au transport du courrier et des colis postaux.

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## CHAPITRE II

### TITRE DE TRANSPORT

#### *Section 1.—Billet de passage*

#### Article 3

- (1) Dans le transport de passagers, un billet de passage doit être délivré, contenant:
- (a) l'indication des points de départ et de destination;
  - (b) si les points de départ et de destination sont situés sur le territoire d'une même Haute Partie Contractante et qu'une ou plusieurs escales soient prévues sur le territoire d'un autre Etat, l'indication d'une de ces escales;
  - (c) un avis indiquant que si les passagers entreprennent un voyage comportant une destination finale ou une escale dans un pays autre que le pays de départ, leur transport peut être régi par la Convention de Varsovie qui, en général, limite la responsabilité du transporteur en cas de mort ou de lésion corporelle, ainsi qu'en cas de perte ou d'avarie des bagages.
- (2) Le billet de passage fait foi, jusqu'à preuve contraire, de la conclusion et des conditions du contrat de transport. L'absence, l'irrégularité ou la perte du billet n'affecte ni l'existence ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention. Toutefois, si, du consentement du transporteur, le passager s'embarque sans qu'un billet de passage ait été dévrié, ou si le billet ne comporte pas l'avis prescrit à l'alinéa 1 (c) du présent article, le transporteur n'aura pas le droit de se prévaloir des dispositions de l'article 22.

#### *Section 2.—Bulletin de bagages*

#### Article 4

- (1) Dans le transport de bagages enregistrés, un bulletin de bagages doit être délivré qui, s'il n'est pas combiné avec un billet de passage conforme aux dispositions de l'article 3, alinéa 1er, ou n'est pas inclus dans un tel billet, doit contenir:
- (a) l'indication des points de départ et de destination;
  - (b) si les points de départ et de destination sont situés sur le territoire d'une même Haute Partie Contractante et qu'une ou plusieurs escales soient prévues sur le territoire d'un autre Etat, l'indication d'une de ces escales;
  - (c) un avis indiquant que, si le transport comporte une destination finale ou une escale dans un pays autre que le pays de départ, il peut être régi par la Convention de Varsovie qui, en général, limite la responsabilité du transporteur en cas de perte ou d'avarie des bagages.
- (2) Le bulletin de bagages fait foi, jusqu'à preuve contraire, de l'enregistrement des bagages et des conditions du contrat de transport. L'absence, l'irrégularité ou la perte du bulletin n'affecte ni l'existence ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention. Toutefois, si le transporteur accepte la garde des bagages sans qu'un bulletin ait été délivré ou si, dans le cas où le bulletin n'est pas combiné avec un billet de passage conforme aux dispositions de l'article 3, alinéa 1 (c), ou n'est pas inclus dans un tel billet, il ne comporte pas l'avis prescrit à l'alinéa 1 (c) du présent article, le transporteur n'aura pas le droit de se prévaloir des dispositions de l'article 22, alinéa 2.

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### Section 3.—Lettre de transport aérien

#### Article 5

- (1) Tout transporteur de marchandises a le droit de demander à l'expéditeur l'établissement et la remise d'un titre appelé: "lettre de transport aérien"; tout expéditeur a le droit de demander au transporteur l'acceptation de ce document.
- (2) Toutefois, l'absence, l'irrégularité ou la perte de ce titre n'affecte ni l'existence, ni la validité du contrat de transport qui n'en sera pas moins soumis aux règles de la présente Convention, sous réserve des dispositions de l'article 9.

#### Article 6

- (1) La lettre de transport aérien est établie par l'expéditeur en trois exemplaires originaux et remise avec la marchandise.
- (2) Le premier exemplaire porte la mention "pour le transporteur"; il est signé par l'expéditeur. Le deuxième exemplaire porte la mention "pour le destinataire"; il est signé par l'expéditeur et le transporteur et il accompagne la marchandise. Le troisième exemplaire est signé par le transporteur et remis par lui à l'expéditeur après acceptation de la marchandise.
- (3) La signature du transporteur doit être apposée avant l'embarquement de la marchandise à bord de l'aéronef.
- (4) La signature du transporteur peut être remplacée par un timbre; celle de l'expéditeur peut être imprimée ou remplacée par un timbre.
- (5) Si, à la demande de l'expéditeur, le transporteur établit la lettre de transport aérien, il est considéré, jusqu'à preuve contraire, comme agissant pour le compte de l'expéditeur.

#### Article 7

Le transporteur de marchandises a le droit de demander à l'expéditeur l'établissement de lettres de transport aérien différentes lorsqu'il y a plusieurs colis.

#### Article 8

La lettre de transport aérien doit contenir:

- (a) L'indication des points de départ et de destination;
- (b) si les points de départ et de destination sont situés sur le territoire d'une même Haute Partie Contractante et qu'une ou plusieurs escales soient prévues sur le territoire d'un autre Etat, l'indication d'une de ces escales;
- (c) un avis indiquant aux expéditeurs que, si le transport comporte une destination finale ou une escale dans un pays autre que le pays de départ, il peut être régi par la Convention de Varsovie qui, en général, limite la responsabilité des transporteurs en cas de perte ou d'avarie des marchandises.

#### Article 9

Si, du consentement du transporteur, des marchandises sont embarquées à bord de l'aéronef sans qu'une lettre de transport aérien ait été établie ou si celle-ci ne comporte pas l'avis prescrit à l'article 8, alinéa (c), le transporteur n'aura pas le droit de se prévaloir des dispositions de l'article 22, alinéa 2.

#### Article 10

- (1) L'expéditeur est responsable de l'exactitude des indications et déclarations concernant la marchandise qu'il inscrit dans la lettre de transport aérien.

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- (2) Il supportera la responsabilité de tout dommage subi par le transporteur ou par toute autre personne à l'égard de laquelle la responsabilité du transporteur est engagée à raison de ses indications et déclarations irrégulières, inexactes ou incomplètes.

#### Article 11

- (1) La lettre de transport aérien fait foi, jusqu'à preuve contraire, de la conclusion du contrat, de la réception de la marchandise et des conditions du transport.
- (2) Les énonciations de la lettre de transport aérien, relatives au poids, aux dimensions et à l'emballage de la marchandise ainsi qu'au nombre des colis, font foi jusqu'à preuve contraire; celles relatives à la quantité, au volume et à l'état de la marchandise ne font preuve contre le transporteur qu'autant que la vérification en a été faite par lui en présence de l'expéditeur, et constatée sur la lettre de transport aérien, ou qu'il s'agit d'énonciations relatives à l'état apparent de la marchandise.

#### Article 12

- (1) L'expéditeur a le droit, sous la condition d'exécuter toutes les obligations résultant du contrat de transport, de disposer de la marchandise, soit en la retirant à l'aérodrome de départ ou de destination, soit en l'arrêtant en cours de route lors d'un atterrissage, soit en la faisant délivrer au lieu de destination ou en cours de route à une personne autre que le destinataire indiqué sur la lettre de transport aérien, soit en demandant son retour à l'aérodrome de départ, pour autant que l'exercice de ce droit ne porte préjudice ni au transporteur, ni aux autres expéditeurs et avec l'obligation de rembourser les frais qui en résultent.
- (2) Dans le cas où l'exécution des ordres de l'expéditeur est impossible, le transporteur doit l'en aviser immédiatement.
- (3) Si le transporteur se conforme aux ordres de disposition de l'expéditeur, sans exiger la production de l'exemplaire de la lettre de transport aérien délivré à celui-ci, il sera responsable, sauf son recours contre l'expéditeur, du préjudice qui pourrait être causé par ce fait à celui qui est régulièrement en possession de la lettre de transport aérien.
- (4) Le droit de l'expéditeur cesse au moment où celui du destinataire commence, conformément à l'article 13 ci-dessous. Toutefois, si le destinataire refuse la lettre de transport ou la marchandise, ou s'il ne peut être atteint, l'expéditeur reprend son droit de disposition.

#### Article 13

- (1) Sauf dans les cas indiqués à l'article précédent, le destinataire a le droit, dès l'arrivée de la marchandise au point de destination, de demander au transporteur de lui remettre la lettre de transport aérien et de lui livrer la marchandise contre le paiement du montant des créances et contre l'exécution des conditions de transport indiquées dans la lettre de transport aérien.
- (2) Sauf stipulation contraire, le transporteur doit aviser le destinataire dès l'arrivée de la marchandise.
- (3) Si la perte de la marchandise est reconnue par le transporteur ou si, à l'expiration d'un délai de sept jours après qu'elle aurait dû arriver, la marchandise n'est pas arrivée, le destinataire est autorisé à faire valoir vis-à-vis du transporteur les droits résultant du contrat de transport.

#### Article 14

L'expéditeur et le destinataire peuvent faire valoir tous les droits qui leur sont respectivement conférés par les articles 12 et 13, chacun en son propre nom, qu'il agisse dans son propre intérêt ou dans l'intérêt d'autrui, à condition d'exécuter les obligations que le contrat impose

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#### Article 15

- (1) Les articles 12, 13 et 14 ne portent aucun préjudice ni aux rapports de l'expéditeur et du destinataire entre eux, ni aux rapports des tiers dont les droits proviennent, soit de l'expéditeur, soit du destinataire.
- (2) Toute clause dérogeant aux stipulations des articles 12, 13 et 14 doit être inscrite dans la lettre de transport aérien.
- (3) Rien dans la présente Convention n'empêche l'établissement d'une lettre de transport aérien négociable.

#### Article 16

- (1) L'expéditeur est tenu de fournir les renseignements et de joindre à la lettre de transport aérien les documents qui, avant la remise de la marchandise au destinataire, sont nécessaires à l'accomplissement des formalités de douane, d'octroi ou de police. L'expéditeur est responsable envers le transporteur de tous dommages qui pourraient résulter de l'absence, de l'insuffisance ou de l'irrégularité de ces renseignements et pièces, sauf le cas de faute de la part du transporteur ou des ses préposés.
- (2) Le transporteur n'est pas tenu d'examiner si ces renseignements et documents sont exacts ou suffisants.

### CHAPITRE III

#### RESPONSABILITÉ DU TRANSPORTEUR

##### *Article 17*

Le transporteur est responsable du dommage survenu en cas de mort, de blessure ou de toute autre lésion corporelle subie par un voyageur lorsque l'accident qui a causé le dommage s'est produit à bord de l'aéronef ou au cours de toutes opérations d'embarquement et de débarquement.

##### *Article 18*

- (1) Le transporteur est responsable du dommage survenu en cas de destruction, perte ou avarie de bagages enregistrés ou de marchandises lorsque l'événement qui a causé le dommage s'est produit pendant le transport aérien.
- (2) Le transport aérien, au sens de l'alinéa précédent, comprend la période pendant laquelle les bagages ou marchandises se trouvent sous la garde du transporteur, que ce soit dans un aéroport ou à bord d'un aéronef ou dans un lieu quelconque en cas d'atterrissage en dehors d'un aéroport.
- (3) La période du transport aérien ne couvre aucun transport terrestre, maritime ou fluvial effectué en dehors d'un aéroport. Toutefois lorsqu'un tel transport est effectué dans l'exécution du contrat de transport aérien en vue du chargement, de la livraison ou du transbordement, tout dommage est présumé, sauf preuve contraire, résulter d'un événement survenu pendant le transport aérien.

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### *Article 19*

Le transporteur est responsable du dommage résultant d'un retard dans le transport aérien de voyageurs, bagages ou marchandises.

### *Article 20*

Le transporteur n'est pas responsable s'il prouve que lui et ses préposés ont pris toutes les mesures nécessaires pour éviter le dommage ou qu'il leur était impossible de les prendre.

### *Article 21*

Dans le cas où le transporteur fait la preuve que la faute de la personne lésée a causé de dommage ou y a contribué, le tribunal pourra, conformément aux dispositions de sa propre loi, écarter ou atténuer la responsabilité du transporteur.

### *Article 22*

- (1) Dans le transport des personnes, la responsabilité du transporteur relative à chaque passager est limitée à la somme de [<sup>F56</sup>16,600 Droits de Tirage spéciaux]. Dans le cas où, d'après la loi du tribunal saisi, l'indemnité peut être fixée sous forme de rente, le capital de la rente ne peut dépasser cette limite. Toutefois par une convention spéciale avec le transporteur, le passager pourra fixer une limite de responsabilité plus élevée.
- (2) (a) Dans le transport de bagages enregistrés et de marchandises, la responsabilité du transporteur est limitée à la somme de [<sup>F57</sup>17 Droits de Tirage spéciaux] par kilogramme, sauf déclaration spéciale d'intérêt à la livraison faite par l'expéditeur au moment de la remise du colis au transporteur et moyennant le paiement d'une taxe supplémentaire éventuelle. Dans ce cas, le transporteur sera tenu de payer jusqu'à concurrence de la somme déclarée, à moins qu'il ne prouve qu'elle est supérieure à l'intérêt réel de l'expéditeur à la livraison.
- (b) En cas de perte, d'avarie ou de retard d'une partie des bagages enregistrés ou des marchandises, ou de tout objet qui y est contenu, seul le poids total du ou des colis dont il s'agit est pris en considération pour déterminer la limite de responsabilité du transporteur. Toutefois, lorsque la perte, l'avarie ou le retard d'une partie des bagages enregistrés ou des marchandises, ou d'un objet qui y est contenu, affecte la valeur d'autres colis couverts par le même bulletin de bagages ou la même lettre de transport aérien, le poids total de ces colis doit être pris en considération pour déterminer la limite de responsabilité.

#### **Textual Amendments**

**F57** Words substituted (1.12.1997) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), ss. 4(1)(a)(i)(ii), 6(2), 7(2); S.I. 1997/2565, art. 2, Sch.

- (3) En ce qui concerne les objets dont le passager conserve la garde, la responsabilité du transporteur est limitée à [<sup>F58</sup>332 Droits de Tirage spéciaux] par passager.

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### Textual Amendments

**F58** Words substituted (1.12.1997) by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), **ss. 4(1)(a)(i)(ii)**, 6(2); [S.I. 1997/2565](#), **art. 2, Sch.**

- (4) Les limites fixées par le présent article n'ont pas pour effet d'enlever au tribunal la faculté d'allouer en outre, conformément à sa loi, une somme correspondant à tout ou partie des dépens et autres frais du procès exposés par le demandeur. La disposition précédente ne s'applique pas lorsque le montant de l'indemnité allouée, non compris les dépens et autres frais de procès, ne dépasse pas la somme que le transporteur a offerte par écrit au demandeur dans un délai de six mois à dater du fait qui a causé le dommage ou avant l'introduction de l'instance si celle-ci est postérieure à ce délai.
- (<sup>F59</sup>5) Les sommes indiquées en Droits de Tirage spéciaux dans le présent article sont considérées comme se rapportant au Droit de Tirage spécial tel que défini par le Fonds monétaire international. La conversion de ces sommes en monnaies nationales s'effectuera en cas d'instance judiciaire suivant la valeur de ces monnaies en Droit de Tirage spécial à la date du jugement.]

### Textual Amendments

**F59** para. (5) of Art. 22 Pt. II (as originally enacted) substituted (1.12.1997) by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), **ss. 4(1)(b)(ii)**, 6(2); [S.I. 1997/2565](#), **art. 2, Sch.**

### Article 23

- (1) Toute clause tendant à exonérer le transporteur de sa responsabilité ou à établir une limite inférieure à celle qui est fixée dans la présente Convention est nulle et de nul effet, mais la nullité de cette clause n'entraîne pas la nullité du contrat qui reste soumis aux dispositions de la présente Convention.
- (2) L'alinéa 1–U du présent article ne s'applique pas aux clauses concernant la perte ou le dommage résultant de la nature ou du vice propre des marchandises transportées.

### Article 24

- (1) Dans les cas prévus aux articles 18 et 19 toute action en responsabilité, à quelque titre que ce soit, ne peut être exercée que dans les conditions et limites prévues par la présente Convention.
- (2) Dans les cas prévus à l'article 17, s'appliquent également les dispositions de l'alinéa précédent, sans préjudice de la détermination des personnes qui ont le droit d'agir et de leurs droits respectifs.

### Article 25

Les limites de responsabilité prévues à l'article 22 ne s'appliquent pas s'il est prouvé que le dommage résulte d'un acte ou d'une omission du transporteur ou de ses préposés fait, soit avec l'intention de provoquer un dommage, soit téméairement et avec conscience qu'un dommage en résultera probablement, pour autant que, dans le cas d'un acte ou d'une omission de préposés, la preuve soit également apportée que ceux-ci ont agi dans l'exercice de leur fonctions.

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#### *Article 25A*

- (1) Si une action est intentée contre un préposé du transporteur à la suite d'un dommage visé par la présente Convention, ce préposé, s'il prouve qu'il a agi dans l'exercice de ses fonctions, pourra se prévaloir des limites de responsabilité que peut invoquer ce transporteur en vertu de l'article 22.
- (2) Le montant total de la réparation qui, dans ce cas, peut être obtenu du transporteur et de ses préposés ne doit pas dépasser lesdites limites.
- (3) Les dispositions des alinéas 1 et 2 du présent article ne s'appliquent pas s'il est prouvé que le dommage résulte d'un acte ou d'une omission du préposé fait, soit avec l'intention de provoquer un dommage, soit téméairement et avec conscience qu'un dommage en résultera probablement.

#### *Article 26*

- (1) La réception des bagages et marchandises sans protestation par le destinataire constituera présomption, sauf preuve contraire, que les marchandises ont été livrées en bon état et conformément au titre de transport.
- (2) En cas d'avarie, le destinataire doit adresser au transporteur une protestation immédiatement après la découverte de l'avarie et, au plus tard, dans un délai de sept jours pour les bagages et de quatorze jours pour les marchandises à dater de leur réception. En cas de retard, la protestation devra être faite au plus tard dans les vingt et un jours à dater du jour où le bagage ou la marchandise auront été mis à sa disposition.
- (3) Toute protestation doit être faite par réserve inscrite sur le titre de transport ou par un autre écrit expédié dans le délai prévu pour cette protestation.
- (4) A défaut de protestation dans les délais prévus, toutes actions contre le transporteur sont irrecevables, sauf le cas de fraude de celui-ci.

#### *Article 27*

En cas de décès du débiteur, l'action en responsabilité, dans les limites prévues par la présente Convention, s'exerce contre ses ayants droit.

#### *Article 28*

- (1) L'action en responsabilité devra être portée, au choix du demandeur, dans le territoire d'une des Hautes Parties Contractantes, soit devant le tribunal du domicile du transporteur, du siège principal de son exploitation ou du lieu où il possède un établissement par le soin duquel le contrat a été conclu, soit devant le tribunal du lieu de destination.
- (2) La procédure sera réglée par la loi du tribunal saisi.

#### *Article 29*

- (1) L'action en responsabilité doit être intentée, sous peine de déchéance, dans le délai de deux ans à compter de l'arrivée à destination ou du jour où l'aéronef aurait dû arriver, ou de l'arrêt du transport.
- (2) Le mode du calcul du délai est déterminé par la loi du tribunal saisi.



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### Article 30

- (1) Dans les cas de transport régis par la définition du troisième alinéa de l'article 1er, a exécuter par divers transporteurs successifs, chaque transporteur acceptant des voyageurs, des bagages ou des marchandises est soumis aux règles établies par cette Convention, et est censé être une des parties contractantes du contrat de transport, pour autant que ce contrat ait trait à la partie du transport effectuée sous son contrôle.
- (2) Au cas d'un tel transport, le voyageur ou ses ayants droit ne pourront recourir que contre le transporteur ayant effectué le transport au cours duquel l'accident ou le retard s'est produit, sauf dans le cas où, par stipulation expresse, le premier transporteur aura assuré la responsabilité pour tout le voyage.
- (3) S'il s'agit de bagages ou de marchandises, l'expéditeur aura recours contre le premier transporteur et le destinataire qui a le droit à la délivrance contre le dernier, et l'un et l'autre pourront, en outre, agir contre le transporteur ayant effectué le transport au cours duquel la destruction, la perte, l'avarie ou le retard se sont produits, Ces transporteurs seront solidairement responsables envers l'expéditeur et le destinataire.

## CHAPITRE IV

### DISPOSITIONS RELATIVES AUX TRANSPORTS COMBINÉS

#### Article 31

- (1) Dans le cas de transports combinés effectués en partie par air et en partie par tout autre moyen de transport, les stipulations de la présente Convention ne s'appliquent qu'au transport aérien et si celui-ci répond aux conditions de l'article 1er.
- (2) Rien dans la présente Convention n'empêche les parties, dans le cas de transports combinés, d'insérer dans le titre de transport aérien des conditions relatives à d'autres modes de transport, à condition que les stipulations de la présente Convention soient respectées en ce qui concerne le transport par air.

## CHAPITRE V

### DISPOSITIONS GÉNÉRALES ET FINALES

#### Article 32

Sont nulles toutes clauses du contrat de transport et toutes conventions particulières antérieures au dommage par lesquelles les parties dérogeraient aux règles de la présente Convention soit par une détermination de la loi applicable, soit par une modification des règles de compétence. Toutefois, dans le transport des marchandises, les clauses d'arbitrage sont admises, dans les limites de la présente Convention, lorsque l'arbitrage doit s'effectuer dans les lieux de compétence des tribunaux prévus à l'article 28, alinéa 1.

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### *Article 33*

Rien dans la présente Convention ne peut empêcher un transporteur de refuser la conclusion d'un contrat de transport ou de formuler des règlements qui ne sont pas en contradiction avec les dispositions de la présente Convention.

### *Article 34*

Les dispositions des articles 3 à 9 inclus relative aux titres de transport ne sont pas applicables au transport effectué dans des circonstances extraordinaires en dehors de toute opération normale de l'exploitation aérienne.

### *Article 35*

Lorsque dans la présente Convention il est question de jours, il s'agit de jours courants et non de jours ouvrables.

### *Article 36*

La présente Convention est rédigée en français en un seul exemplaire qui restera déposé aux archives du Ministère des Affaires Etrangères de Pologne, et dont une copie certifiée conforme sera transmise par les soins du Gouvernement polonais au Gouvernement de chacune des Hautes Parties Contractantes.

.....

### *Article 40A*

- (1) .....
- (2) Aux fins de la Convention, le mot *territoires* signifie non seulement le territoire métropolitain d'un Etat, mais aussi tous les territoires qu'il représente dans les relations extérieures.

.....

## PROTOCOLE ADDITIONNEL

### *Ad Article 2*

Les Hautes Parties Contractantes se réservent le droit de déclarer au moment de la ratification ou de l'adhésion que l'article 2, alinéa premier, de la présente Convention ne s'appliquera pas aux transports internationaux aériens effectués directement par l'Etat, ses colonies, protectorats, territoires sous mandat ou tout autre territoire sous sa souveraineté, sa suzeraineté ou son autorité.]

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PROSPECTIVE

[<sup>F60</sup>SCHEDULE 1THE WARSAW CONVENTION AS AMENDED AT THE HAGUE IN 1955  
AND BY PROTOCOLS NO. 3 AND NO. 4 SIGNED AT MONTREAL IN 1975**Textual Amendments**

**F60** [Schedule 1](#), containing the provisions of the Warsaw Convention as amended at the Hague in 1955 and by Protocols No. 3 and No. 4 signed at Montreal in 1975, substituted (*prosp.*) with saving for Schedule 1 as originally enacted, containing the provisions of the Warsaw Convention with the amendments made in it by the Hague Protocol, by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), **ss. 1(1)(3), 6(2), 7(2)**

**PART I**

## THE ENGLISH TEXT

**CHAPTER I**

## SCOPE—DEFINITIONS

*Article 1*

- (1) This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.
- (2) For the purposes of this Convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a trans-shipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.
- (3) Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

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## *Article 2*

- (1) This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.
- (2) In the carriage of postal items the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.
- (3) Except as provided in paragraph (2) of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

## CHAPTER II

### DOCUMENTS OF CARRIAGE

#### *SECTION 1—PASSENGER TICKET*

#### Article 3

- (1) In respect of the carriage of passengers an individual or collective document of carriage shall be delivered containing:
  - (a) an indication of the places of departure and destination;
  - (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.
- (2) Any other means which would preserve a record of the information indicated in (a) and (b) of the foregoing paragraph may be substituted for the delivery of the document referred to in that paragraph.
- (3) Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this convention including those relating to limitation of liability.

#### *SECTION 2—BAGGAGE CHECK*

#### Article 4

- (1) In respect of the carriage of checked baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a document of carriage which complies with the provisions of Article 3, paragraph (1), shall contain:
  - (a) an indication of the places of departure and destination;
  - (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.
- (2) Any other means which would preserve a record of the information indicated in (a) and (b) of the foregoing paragraph may be substituted for the delivery of the baggage check referred to in that paragraph.

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- (3) Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

### SECTION 3—DOCUMENTATION RELATING TO CARGO

#### 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 shall 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 one 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) or Article 5 are used.
- (b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in paragraph (2) or Article 5 are used.
- (b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in paragraph (2) or Article 5 are used.
- (b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in paragraph (2) or Article 5 are used.
- (b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in paragraph (2) or Article 5 are used.

#### Article 8

The air waybill and the receipt for the cargo shall contain:

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- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
- (c) an indication of the weight of the consignment.

#### 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, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

#### Article 10

- (1) The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by him or on his behalf in the air waybill or furnished by him or on his behalf to the carrier for insertion in the receipt for the cargo or for insertion in the record preserved by the other means referred to in paragraph (2) of Article 5.
- (2) The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on his behalf.
- (3) Subject to the provisions of paragraphs (1) and (2) of this Article, the carrier shall indemnify the consignor against all damage suffered by him, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on his behalf in the receipt for the cargo or in the record preserved by the other means referred to in paragraph (2) of Article 5.

#### Article 11

- (1) The air waybill or the receipt for the cargo is prima facie evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.
- (2) Any statements in the air waybill or the receipt for the cargo relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

#### Article 12

- (1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.
- (2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

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(3) If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the receipt for the cargo delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the receipt for the cargo.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

#### Article 13

(1) Except when the consignor has exercised his right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

(3) If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

#### Article 14

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract of carriage.

#### Article 15

(1) Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the receipt for the cargo.

#### Article 16

(1) The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is 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, his servants or agents.

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

### CHAPTER III

#### LIABILITY OF THE CARRIER

##### Article 17

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- (1) The carrier is liable for damage sustained in case of death or personal injury of a passenger upon condition only that the event which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking. However, the carrier is not liable if the death or injury resulted solely from the state of health of the passenger.
- (2) The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or in the course of any of the operations of embarking or disembarking or during any period within which the baggage was in charge of the carrier. However, the carrier is not liable if the damage resulted solely from the inherent defect, quality or vice of the baggage.
- (3) Unless otherwise specified, in this Convention the term “baggage” means both checked baggage and objects carried by the passenger.

#### *Article 18*

- (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the occurrence which caused the damage so sustained took place during the carriage by air.
- (2) However, the carrier is not liable if he proves that the destruction, loss of, or damage to, the cargo resulted solely from one or more of the following:
  - (a) inherent defect, quality or vice of that cargo;
  - (b) defective packing of that cargo performed by a person other than the carrier or his servants or agents;
  - (c) an act of war or an armed conflict;
  - (d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.
- (3) The carriage by air within the meaning of paragraph (1) of this Article comprises the period during which the cargo is in the charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, in any place whatsoever.
- (4) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

#### *Article 19*

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.



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#### Article 20

In the carriage of passengers, baggage and cargo, the carrier shall not be liable for damage occasioned by delay if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.

#### Article 21

- (1) In the carriage of passengers and baggage, if the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, the carrier shall be wholly or partly exonerated from his liability to such person to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of the death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from his liability to the extent that he proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger.
- (2) In the carriage of cargo, if the carrier proves that the damage was caused by or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he derives his rights, the carrier shall be wholly or partly exonerated from his liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

#### Article 22

- (1)
  - (a) In the carriage of persons the liability of the carrier is limited to the sum of 100,000 special drawing rights for the aggregate of the claims, however founded, in respect of damage suffered as a result of the death or personal injury of each passenger. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed 100,000 special drawing rights.
  - (b) In the case of delay in the carriage of persons the liability of the carrier for each passenger is limited to 4,150 special drawing rights.
  - (c) In the carriage of baggage the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1,000 special drawing rights for each passenger.
- (2)
  - (a) The courts of the High Contracting Parties which are not authorised under their law to award the costs of the action, including lawyers' fees, shall, in actions relating to the carriage of passengers and baggage to which this Convention applies, have the power to award, in their discretion, to the claimant the whole or part of the costs of the action, including lawyers' fees which the court considers reasonable.
  - (b) The costs of the action including lawyers' fees shall be awarded in accordance with subparagraph (a) only if the claimant gives a written notice to the carrier of the amount claimed including the particulars of the calculation of that amount and the carrier does not make, within a period of six months after his receipt of such notice, a written offer of settlement in

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an amount at least equal to the compensation awarded within the applicable limit. This period will be extended until the time of commencement of the action if that is later.

- (c) The costs of the action including lawyers' fees shall not be taken into account in applying the limits under this Article.
- (3) The sums mentioned in terms of special drawing right in this Article shall be deemed to refer to the special drawing right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the special drawing right at the date of the judgment.

#### *Article 22A*

- (1) (a) In the carriage of cargo, the liability of the carrier is limited to a sum of 17 special drawing rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the consignor's actual interest in delivery at destination.
  - (b) In the case of loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.
- (2) The limits prescribed in this Article shall not prevent the court in an action relating to the carriage of cargo from awarding in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.
- (3) The sums mentioned in terms of special drawing right in this Article shall be deemed to refer to the special drawing right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the special drawing right at the date of the judgment.

#### *Article 23*

- (1) Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of

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any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

- (2) Paragraph (1) of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

#### *Article 24*

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and limits of liability set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. Such limits of liability constitute maximum limits and may not be exceeded whatever the circumstances which gave rise to the liability.

#### *Article 25A*

- (1) If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under this Convention.
- (2) The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.

#### *Article 26*

- (1) Receipt by the person entitled to delivery of baggage or cargo without complaint is prima facie evidence that the same has 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 seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo 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.

#### *Article 27*

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

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### *Article 28*

- (1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the court having jurisdiction at the place of destination.
- (2) In respect of damage resulting from the death, injury or delay of a passenger or the destruction, loss, damage or delay of baggage, the action may be brought before one of the courts mentioned in paragraph (1) of this Article, or in the territory of one of the High Contracting Parties, before the court within the jurisdiction of which the carrier has an establishment if the passenger has his ordinary or permanent residence in the territory of the same High Contracting Party.
- (3) Questions of procedure shall be governed by the law of the court seised of the case.

### *Article 29*

- (1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
- (2) The method of calculating the period of limitation shall be determined by the law of the court seised of the case.

### *Article 30*

- (1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.
- (2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier assumed liability for the whole journey.
- (3) As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

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#### Article 30A

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

### CHAPTER IV

#### PROVISIONS RELATING TO COMBINED CARRIAGE

##### Article 31

- (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.
- (2) Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

### CHAPTER V

#### GENERAL AND FINAL PROVISIONS

##### Article 32

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

##### Article 33

Except as provided in paragraph (3) of Article 5, nothing in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage or from making regulations which do not conflict with the provisions of this Convention.

##### Article 34

The provisions of Articles 3 to 8 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

##### Article 35

The expression "days" when used in this Convention means current days not working days.

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#### *Article 35A*

No provision contained in this Convention shall prevent a State from establishing and operating within its territory a system to supplement the compensation payable to claimants under the Convention in respect of death, or personal injury, of passengers. Such a system shall fulfil the following conditions:

- (a) it shall not in any circumstances impose upon the carrier, his servants or agents, any liability in addition to that provided under this Convention;
- (b) it shall not impose upon the carrier any financial or administrative burden other than collecting in that State contributions from passengers if required so to do;
- (c) it shall not give rise to any discrimination between carriers with regard to the passengers concerned and the benefits available to the said passengers under the system shall be extended to them regardless of the carrier whose services they have used;
- (d) if a passenger has contributed to the system, any person suffering damage as a consequence of death or personal injury of such passenger shall be entitled to the benefits of the system.

#### *Article 40A*

- (1) [*This paragraph is not reproduced. It defines "High Contracting Part"y.*]
- (2) For the purposes of the Convention the word *territory* means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.

[*Articles 36, 37, 38, 39, 40 and 42 and the concluding words of the Convention are not reproduced. They deal, among other things, with the coming into force of the Convention. The former Article 25 is superseded by Article 24.*]

#### ADDITIONAL PROTOCOL

(*With reference to Article 2*)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

## PART II

### THE FRENCH TEXT CHAPITRE IER OBJET—DÉFINITIONS

#### CHAPITRE IER

#### OBJET — DÉFINITIONS

#### *Article 1er*

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- (1) La présente Convention s'applique à tout transport international de personnes, bagages ou marchandises, effectué par aéronef contre rémunération. Elle s'applique également aux transports gratuits effectués par aéronef par une entreprise de transports aériens.
- (2) Est qualifié *transport international*; au sens de la présente Convention, tout transport dans lequel, d'après les stipulations des parties, le point de départ et le point de destination, qu'il y ait ou non interruption de transport ou transbordement, sont situés soit sur le territoire de deux Hautes Parties Contractantes, soit sur le territoire d'une seule Haute Partie Contractante si une escale est prévue sur le territoire d'un autre Etat, même si cet Etat n'est pas une Haute Partie Contractante. Le transport sans une telle escale entre deux points du territoire d'une seule Haute Partie Contractante n'est pas considéré comme international au sens de la présente Convention.
- (3) Le transport à exécuter par plusieurs transporteurs par air successifs est censé constituer pour l'application de la présente Convention un transport unique lorsqu'il a été envisagé par les parties comme une seule opération, qu'il ait été conclu sous la forme d'un seul contrat ou d'une série de contrats, et il ne perd pas son caractère international par le fait qu'un seul contrat ou une série de contrats doivent être exécutés intégralement dans le territoire d'un même Etat.

## Article 2

- (1) La Convention s'applique aux transports effectués par l'Etat ou les autres personnes juridiques de droit public, dans les conditions prévues à l'article 1er.
- (2) Dans le transport des envois postaux, le transporteur n'est responsable qu'envers l'administration postale compétente conformément aux règles applicables dans les rapports entre les transporteurs et les administrations postales.
- (3) Les dispositions de la présente Convention autres que celles de l'alinéa (2) ci-dessus ne s'appliquent pas au transport des envois postaux.

## CHAPITRE II

### TITRES DE TRANSPORT

#### SECTION 1—BILLET DE PASSAGE

#### Article 3

- (1) Dans le transport de passagers, un titre de transport individuel ou collectif doit être délivré, contenant:
  - (a) l'indication des points de départ et de destination;
  - (b) si les points de départ et de destination sont situés sur le territoire d'une même Haute Partie Contractante et si une ou plusieurs escales sont prévues sur le territoire d'un autre Etat, l'indication d'une de ces escales.
- (2) L'emploi de tout autre moyen constatant les indications qui figurent à l'alinéa (1) (a) et (b), peut se substituer à la délivrance du titre de transport mentionné audit alinéa.

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- (3) L'observation des dispositions de l'alinéa précédent n'affecte ni l'existence ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention, y compris celles qui portent sur la limitation de responsabilité.

#### *SECTION 2—BULLETIN DE BAGGAGES*

##### Article 4

- (1) Dans le transport de bagages enregistrés, un bulletin de bagages doit être délivré qui, s'il n'est pas combiné avec un titre de transport conforme aux dispositions de l'article 3, alinéa 1er, ou n'est pas inclus dans un tel titre de transport, doit contenir:
- (a) l'indication des points de départ et de destination;
  - (b) si les points de départ et de destination sont situés sur le territoire d'une même Haute Partie Contractante et si une ou plusieurs escales sont prévues sur le territoire d'un autre Etat, l'indication d'une de ces escales.
- (2) L'emploi de tout autre moyen constatant les indications qui figurent à l'alinéa (1) (a) et (b), peut se substituer à la délivrance du bulletin de bagages mentionné audit alinéa.
- (3) L'observation des dispositions de l'alinéa précédent n'affecte ni l'existence ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention, y compris celles qui portent sur la limitation de responsabilité.

#### *SECTION 3—DOCUMENTATION RELATIVE AUX MARCHANDISES*

##### Article 5

- (1) Pour le transport de marchandises une lettre de transport aérien est émise.
- (2) L'emploi de tout autre moyen constatant les indications relatives au transport à exécuter peut, avec le consentement de l'expéditeur, se substituer à l'émission de la lettre de transport aérien. Si de tels autres moyens sont utilisés, le transporteur délivre, à l'expéditeur, à la demande de ce dernier, un récépissé de la marchandise permettant l'identification de l'expédition et l'accès aux indications enregistrées par ces autres moyens.
- (3) L'impossibilité d'utiliser, aux points de transit et de destination, les autres moyens permettant de constater les indications relatives au transport, visés à l'alinéa (2) ci-dessus, n'autorise pas le transporteur à refuser l'acceptation des marchandises en vue du transport.

##### Article 6

- (1) La lettre de transport aérien est établie par l'expéditeur en trois exemplaires originaux.
- (2) Le premier exemplaire porte la mention "pour le transporteur"; il est signé par l'expéditeur. Le deuxième exemplaire porte la mention "pour le destinataire"; il est signé par l'expéditeur et le transporteur. Le troisième exemplaire est signé par le transporteur et remis par lui à l'expéditeur après acceptation de la marchandise.
- (3) La signature du transporteur et celle de l'expéditeur peuvent être imprimées ou remplacées par un timbre.
- (4) Si, à la demande de l'expéditeur, le transporteur établit la lettre de transport aérien, il est considéré, jusqu'à preuve contraire, comme agissant au nom de l'expéditeur.



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## Article 7

Lorsqu'il y a plusieurs colis:

- (a) le transporteur de marchandises a le droit de demander à l'expéditeur l'établissement de lettres de transport aérien distinctes;
- (b) l'expéditeur a le droit de demander au transporteur la remise de récépissés distincts, lorsque les autres moyens visés à l'alinéa (2) de l'article 5 sont utilisés.

## Article 8

La lettre de transport aérien et le récépissé de la marchandise contiennent:

- (a) l'indication des points de départ et de destination;
- (b) si les points de départ et de destination sont situés sur le territoire d'une même Haute Partie Contractante et qu'une ou plusieurs escales soient prévues sur le territoire d'un autre Etat, l'indication d'un de ces escales;
- (c) la mention du poids de l'expédition.

## Article 9

L'inobservation des dispositions des articles 5 à 8 n'affecte ni l'existence ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention, y compris celles qui portent sur la limitation de responsabilité.

## Article 10

- (1) L'expéditeur est responsable de l'exactitude des indications et déclarations concernant la marchandise inscrites par lui ou en son nom dans la lettre de transport aérien, ainsi que de celles fournies et faites par lui ou en son nom au transporteur en vue d'être insérées dans le récépissé de la marchandise ou pour insertion dans les données enregistrées par les autres moyens prévus à l'alinéa (2) de l'article 5.
- (2) L'expéditeur assume la responsabilité de tout dommage subi par le transporteur ou par toute autre personne à l'égard de laquelle la responsabilité du transporteur est engagée, à raison des indications et déclarations irrégulières, inexactes ou incomplètes fournies et faites par lui ou en son nom.
- (3) Sous réserve des dispositions des alinéas (1) et (2) du présent article, le transporteur assume la responsabilité de tout dommage subi par l'expéditeur ou par toute autre personne à l'égard de laquelle la responsabilité de l'expéditeur est engagée, à raison des indications et déclarations irrégulières, inexactes ou incomplètes insérées par lui ou en son nom dans le récépissé de la marchandise ou dans les données enregistrées par les autres moyens prévus à l'alinéa (2) de l'article 5.

## Article 11

- (1) La lettre de transport aérien et le récépissé de la marchandise font foi, jusqu'à preuve contraire, de la conclusion du contrat, de la réception de la marchandise et des conditions du transport qui y figurent.
- (2) Les énonciations de la lettre de transport aérien et du récépissé de la marchandise, relatives au poids, aux dimensions et à l'emballage de la marchandise ainsi qu'au nombre des colis font foi jusqu'à preuve contraire; celles relatives à la quantité, au volume et à l'état de la marchandise ne font preuve contre le transporteur qu'autant que la vérification en a été faite par lui en présence de l'expéditeur, et constatée sur la lettre de transport aérien, ou qu'il s'agit d'énonciations relatives à l'état apparent de la marchandise.

## Article 12

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- (1) L'expéditeur a le droit, sous la condition d'exécuter toutes les obligations résultant du contrat de transport, de disposer de la marchandise, soit en la retirant à l'aérodrome de départ ou de destination, soit en l'arrêtant en cours de route lors d'un atterrissage, soit en la faisant délivrer au lieu de destination ou en cours de route à une personne autre que le destinataire initialement désigné, soit en demandant son retour à l'aérodrome, de départ, pour autant que l'exercice de ce droit ne porte préjudice ni au transporteur, ni aux autres expéditeurs et avec l'obligation de rembourser les frais qui en résultent.
- (2) Dans le cas où l'exécution des ordres de l'expéditeur est impossible, le transporteur doit l'en aviser immédiatement.
- (3) Si le transporteur se conforme aux ordres de disposition de l'expéditeur, sans exiger la production de l'exemplaire de la lettre de transport aérien ou du récépissé de la marchandise délivré à celui-ci, il sera responsable, sauf son recours contre l'expéditeur, du préjudice qui pourra être causé par ce fait à celui qui est régulièrement en possession de la lettre de transport aérien ou du récépissé de la marchandise.
- (4) Le droit de l'expéditeur cesse au moment où celui du destinataire commence, conformément à l'article 13. Toutefois, si le destinataire refuse la marchandise, ou si'il ne peut être atteint, l'expéditeur reprend son droit de disposition.

#### Article 13

- (1) Sauf lorsque l'expéditeur a exercé le droit qui'il tient de l'article 12, le destinataire a le droit, dès l'arrivée de la marchandise au point de destination, de demander au transporteur de lui livrer la marchandise contre le paiement du montant des créances et contre l'exécution des conditions de transport.
- (2) Sauf stipulation contraire, le transporteur doit aviser le destinataire dès l'arrivée de la marchandise.
- (3) Si la perte de la marchandise est reconnue par le transporteur ou si, à l'expiration d'un délai de sept jours après qu'elle aurait dû arriver, la marchandise n'est pas arrivée, le destinataire est autorisé à faire valoir vis-à-vis du transporteur les droits résultant du contrat de transport.

#### Article 14

L'expéditeur et le destinataire peuvent faire valoir tous les droits qui leur sont respectivement conférés par les articles 12 et 13, chacun en son propre nom, qui'il agisse dans son propre intérêt ou dans l'intérêt d'autrui, à condition d'exécuter les obligations que le contrat de transport impose.

#### Article 15

- (1) Les articles 12, 13 et 14 ne portent aucun préjudice ni aux rapports de l'expéditeur et du destinataire entre eux, ni aux rapports des tiers dont les droits proviennent, soit de l'expéditeur, soit du destinataire.
- (2) Toute clause dérogeant aux stipulations des articles 12, 13 et 14 doit être inscrite dans la lettre de transport aérien ou dans le récépissé de la marchandise.

#### Article 16

- (1) L'expéditeur est tenu de fournir les renseignements et les documents qui, avant la remise de la marchandise au destinataire, sont nécessaires à l'accomplissement des formalités de douane, d'octroi ou de police. L'expéditeur est responsable envers le transporteur de tous dommages qui pourraient résulter de l'absence, de l'insuffisance ou de l'irrégularité de ces renseignements et pièces, sauf le cas de faute de la part du transporteur ou de ses préposés.

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- (2) Le transporteur n'est pas tenu d'examiner si ces renseignements et documents sont exacts ou suffisants.

### CHAPITRE III

#### RESPONSABILITÉ DU TRANSPORTEUR

##### *Article 17*

- (1) Le transporteur est responsable du préjudice survenu en cas de mort ou de toute lésion corporelle subie par un passager, par cela seul que le fait qui a causé la mort ou la lésion corporelle s'est produit à bord de l'aéronef ou au cours de toutes opérations d'embarquement ou de débarquement. Toutefois, le transporteur n'est pas responsable si la mort ou la lésion corporelle résulte uniquement de l'état de santé du passager.
- (2) Le transporteur est responsable du dommage survenu en cas de destruction, perte ou avarie de bagages, par cela seul que le fait qui a causé la destruction, la perte ou l'avarie s'est produit à bord de l'aéronef, au cours de toutes opérations d'embarquement ou de débarquement ou au cours de toute période durant laquelle le transporteur avait la garde des bagages. Toutefois, le transporteur n'est pas responsable si le dommage résulte uniquement de la nature ou du vice propre des bagages.
- (3) Sous réserve de dispositions contraires, dans cette Convention le terme "bagages" désigne les bagages enregistrés aussi bien que les objets qu'emporte le passager.

##### *Article 18*

- (1) Le transporteur est responsable du dommage survenu en cas de destruction, perte ou avarie de la marchandise par cela seul que le fait qui a causé le dommage s'est produit pendant le transport aérien.
- (2) Toutefois, le transporteur n'est pas responsable s'il établit que la destruction, la perte ou l'avarie de la marchandise résulte uniquement de l'un ou de plusieurs des faits suivants:
- (a) la nature ou le vice propre de la marchandise;
  - (b) l'emballage défectueux de la marchandise par une personne autre que le transporteur ou ses préposés;
  - (c) un fait de guerre ou un conflit armé
  - (d) un acte de l'autorité publique accompli en relation avec l'entrée, la sortie ou le transit de la marchandise.
- (3) Le transport aérien, au sens de l'alinéa (1) du présent article, comprend la période pendant laquelle les bagages ou marchandises se trouvent sous la garde du transporteur, que ce soit dans un aéroport ou à bord d'un aéronef ou dans un lieu quelconque en case d'atterrissage en dehors d'un aéroport.

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- (4) La période du transport aérien ne couvre aucun transport terrestre, maritime ou fluvial effectué en dehors d'un aéroport. Toutefois, lorsqu'un tel transport est effectué dans l'exécution du contrat de transport aérien en vue du chargement de la livraison ou du transbordement, tout dommage est présumé, sauf preuve contraire, résulter d'un événement survenu pendant le transport aérien.

#### *Article 19*

Le transporteur est responsable du dommage résultant d'un retard dans le transport aérien de voyageurs, bagages ou marchandises.

#### *Article 20*

Dans le transport de passagers, de bagages et de marchandises, le transporteur n'est pas responsable du dommage résultant d'un retard s'il prouve que lui et ses préposés ont pris toutes les mesures nécessaires pour éviter le dommage ou qu'il leur était impossible de les prendre.

#### *Article 21*

- (1) Dans le cas où il fait la preuve que la faute de la personne qui demande réparation a causé le dommage ou y a contribué, le transporteur est exonéré en tout ou en partie de sa responsabilité à l'égard de cette personne, dans la mesure où cette faute a causé le dommage ou y a contribué. Lorsque'une demande en réparation est introduite par une personne autre que le passager, en raison de la mort ou d'une lésion corporelle subie par ce dernier, le transporteur est également exonéré en tout ou en partie de sa responsabilité dans la mesure où il prouve que la faute de ce passager a causé le dommage ou y a contribué.
- (2) Dans le transport de marchandises, le transporteur est exonéré, en tout ou en partie, de sa responsabilité dans la mesure où il prouve que la faute de la personne qui demande réparation ou de la personne dont elle tient ses droits a causé le dommage ou y a contribué.

#### *Article 22*

- (1) (a) Dans le transport de personnes, la responsabilité du transporteur est limitée à la somme de 100.000 Droits de Tirage spéciaux pour l'ensemble des demandes présentées, à quelque titre que ce soit, en réparation du dommage subi en conséquence de la mort ou de lésions corporelles d'un passager. Dans le cas où, d'après la loi du tribunal saisi, l'indemnité peut être fixée sous forme de rente, le capital de la rente ne peut dépasser 100.000 Droits de Tirage spéciaux.
- (b) En cas de retard dans le transport de personnes, la responsabilité du transporteur est limitée à la somme de 4.150 Droits de Tirage spéciaux par passager.
- (c) Dans le transport de bagages, la responsabilité du transporteur en cas de destruction, perte, avarie ou retard est limitée à la somme de 1.000 Droits de Tirage spéciaux par passager.

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- (2) (a) Les tribunaux des Hautes Parties Contractantes qui n'ont pas la faculté, en vertu de leur propre loi, d'allouer des frais de procès y compris des honoraires d'avocat auront, dans les instances auxquelles la présente Convention s'applique, le pouvoir d'allouer au demandeur, suivant leur appréciation, tout ou partie des frais de procès, y compris les honoraires d'avocat qu'ils jugent raisonnables.
  - (b) Les frais de procès y compris des honoraires d'avocat ne sont accordés, en vertu de l'alinéa (a), que si le demandeur a notifié par écrit au transporteur le montant de la somme réclamée, y compris les détails de calcul de cette somme, et si le transporteur n'a pas, dans un délai de six mois à compter de la réception de cette demande, fait par écrit une offre de règlement d'un montant au moins égal à celui des dommages-intérêts alloués par le tribunal à concurrence de la limite applicable. Ce délai est prorogé jusqu'au jour de l'introduction de l'instance si celle-ci est postérieure à l'expiration de ce délai.
  - (c) Les frais de procès y compris des honoraires d'avocat ne sont pas pris en considération pour l'application des limites prévues au présent article.
- (3) Les sommes indiquées en Droits de Tirage spéciaux dans le présent article sont considérées comme se rapportant au Droit de Tirage spécial tel que défini par le Fonds monétaire international. La conversion de ces sommes en monnaies nationales s'effectuera en cas d'instance judiciaire suivant la valeur de ces monnaies en Droit de Tirage spécial à la date du jugement.

#### Article 22A

- (1) (a) Dans le transport de marchandises, la responsabilité du transporteur est limitée à la somme de 17 Droits de Tirage spéciaux par kilogramme, sauf déclaration spéciale d'intérêt à la livraison faite par l'expéditeur au moment de la remise du colis au transporteur et moyennant le paiement d'une taxe supplémentaire éventuelle. Dans ce cas, le transporteur sera tenu de payer jusqu'à concurrence de la somme déclarée, à moins qu'il ne prouve qu'elle est supérieure à l'intérêt réel de l'expéditeur à la livraison.
- (b) En cas de perte, d'avarie ou de retard d'une partie des marchandises, ou de tout objet qui y est contenu, seul le poids total du ou des colis dont il s'agit est pris en considération pour déterminer la limite de responsabilité du transporteur. Toutefois, lorsque la perte, l'avarie ou le retard d'une partie des marchandises, ou d'un objet qui y est contenu, affecte la valeur d'autres colis couverts par la même lettre de transport aérien, le poids total de ces colis doit être pris en considération pour déterminer la limite de responsabilité.
- (2) Les limites fixées par le présent article n'ont pas pour effet d'enlever au tribunal la faculté d'allouer en outre, conformément à sa loi, une somme correspondante à tout ou partie des dépens et autres frais du procès exposés par le demandeur. La disposition précédente ne s'applique pas lorsque le montant de l'indemnité allouée, non compris les dépens et autres frais de procès, ne dépasse pas la somme que le transporteur a offerte par écrit au demandeur dans un délai de six mois à dater du fait qui a causé le dommage ou avant l'introduction de l'instance si celle-ci est postérieure à ce délai.
- (3) Les sommes indiquées en Droits de Tirage spéciaux dans le présent article sont considérées comme se rapportant au Droit de Tirage spécial tel que défini par le Fonds monétaire international. La conversion de ces sommes

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en monnaies nationales s'effectuera en cas d'instance judiciaire suivant la valeur de ces monnaies en Droit de Tirage spécial à la date du jugement.

#### *Article 23*

- (1) Toute clause tendant à exonérer le transporteur de sa responsabilité ou à établir une limite inférieure à celle qui est fixée dans la présente Convention est nulle et de nul effet, mais la nullité de cette clause n'entraîne pas la nullité du contrat qui reste soumis aux dispositions de la présente Convention.
- (2) L'alinéa 1er du présent article ne s'applique pas aux clauses concernant la perte ou le dommage résultant de la nature ou du vice propre des marchandises transportées.

#### *Article 24*

Dans le transport de passagers, de bagages et de marchandises, toute action en responsabilité introduite, à quelque titre que ce soit, que ce soit en vertu de la présente Convention, en raison d'un contrat ou d'un acte illicite ou pour autre cause, ne peut être exercée que dans les conditions et limites de responsabilité prévues par la présente Convention, sans préjudice de la détermination des personnes qui ont le droit d'agir et de leurs droits respectifs. Ces limites de responsabilité constituent un maximum et sont infranchissables, quelles que soient les circonstances qui sont à l'origine de la responsabilité.

#### *Article 25A*

- (1) Si une action est intentée contre un préposé du transporteur à la suite d'un dommage visé par la Convention, ce préposé, s'il prouve qu'il a agi dans l'exercice de ses fonctions, pourra se prévaloir des limites de responsabilité que peut invoquer ce transporteur en vertu de la présente Convention.
- (2) Le montant total de la réparation qui, dans ce cas, peut être obtenu du transporteur et de ses préposés ne doit pas dépasser lesdites limites.

#### *Article 26*

- (1) La réception des bagages et marchandises sans protestation par le destinataire constituera présomption, sauf preuve contraire, que les marchandises ont été livrées en bon état et conformément au titre de transport.
- (2) En cas d'avarie, le destinataire doit adresser au transporteur une protestation immédiatement après la découverte de l'avarie et, au plus tard, dans un délai de sept jours pour les bagages et de quatorze jours pour les marchandises à dater de leur réception. En cas de retard, la protestation devra être faite au plus tard dans les vingt et un jours à dater du jour où le bagage ou la marchandise auront été mis à sa disposition.
- (3) Toute protestation doit être faite par réserve inscrite sur le titre de transport ou par un autre écrit expédié dans le délai prévu pour cette protestation.

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- (4) A défaut de protestation dans les délais prévus, toutes actions contre le transporteur sont irrecevables, sauf le cas de fraude de celui-ci.

#### *Article 27*

En cas de décès du débiteur, l'action en responsabilité, dans les limites prévues par la présente Convention, s'exerce contre ses ayants droit.

#### *Article 28*

- (1) L'action en responsabilité devra être portée, au choix du demandeur, dans le territoire d'une Haute Partie Contractante, soit devant le tribunal du domicile du transporteur, du siège principal de son exploitation ou du lieu où il possède un établissement par le soin duquel le contrat a été conclu, soit devant le tribunal du lieu de destination.
- (2) En ce qui concerne le dommage résultant de la mort, d'une lésion corporelle ou du retard subi par un passager ainsi que de la destruction, perte, avarie ou retard des bagages, l'action en responsabilité peut être intentée devant l'un des tribunaux mentionnés à l'alinéa 1er du présent article ou, sur le territoire d'une Haute Partie Contractante, devant le tribunal dans le ressort duquel le transporteur possède un établissement, si le passager a son domicile ou sa résidence permanente sur le territoire de la même Haute Partie Contractante.
- (3) La procédure sera réglée par la loi du tribunal saisi.

#### *Article 29*

- (1) L'action en responsabilité doit être intentée, sous peine de déchéance, dans le délai de deux ans à compter de l'arrivée à destination ou du jour où l'aéronef aurait dû arriver, ou de l'arrêt du transport.
- (2) Le mode de calcul du délai est déterminé par la loi du tribunal saisi.

#### *Article 30*

- (1) Dans les cas de transport régis par la définition du troisième alinéa de l'article 1er, à exécuter par divers transporteurs successifs, chaque transporteur acceptant des voyageurs, des bagages ou des marchandises est soumis aux règles établies par cette Convention, et est censé être une des parties contractantes du contrat de transport, pour autant que ce contrat ait trait à la partie du transport effectuée sous son contrôle.
- (2) Au cas d'un tel transport, le voyageur ou ses ayants droit ne pourront recourir que contre le transporteur ayant effectué le transport au cours duquel l'accident ou le retard s'est produit, sauf dans le cas où, par stipulation expresse, le premier transporteur aura assuré la responsabilité pour tout le voyage.

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- (3) S'il s'agit de bagages ou de marchandises, l'expéditeur aura recours contre le premier transporteur et le destinataire qui a le droit à la délivrance contre le dernier, et l'un et l'autre pourront, en outre, agir contre le transporteur ayant effectué le transport au cours duquel la destruction, la perte, l'avarie ou le retard se sont produits. Ces transporteurs seront solidairement responsables envers l'expéditeur et le destinataire.

#### *Article 30A*

La présente Convention ne préjuge en aucune manière la question de savoir si la personne tenue pour responsable en vertu de ses dispositions a ou non un recours contre toute autre personne.

### CHAPITRE IV

#### DISPOSITIONS RELATIVES AUX TRANSPORTS COMBINÉS

#### *Article 31*

- (1) Dans le cas de transports combinés effectués en partie par air et en partie par tout autre moyen de transport, les stipulations de la présente Convention ne s'appliquent qu'au transport aérien et si celui-ci répond aux conditions de l'article 1er.
- (2) Rien dans la présente Convention n'empêche les parties, dans le cas de transports combinés, d'insérer dans le titre de transport aérien des conditions relatives à d'autres modes de transport, à condition que les stipulations de la présente Convention soient respectées en ce qui concerne le transport par air.

### CHAPITRE V

#### DISPOSITIONS GÉNÉRALES ET FINALS

#### *Article 32*

Sont nulles toutes clauses du contrat de transport et toutes conventions particulières antérieures au dommage par lesquelles les parties dérogeraient aux règles de la présente Convention soit par une détermination de la loi applicable, soit par une modification des règles de compétence. Toutefois, dans le transport des marchandises, les clauses d'arbitrage sont admises, dans les limites de la présente Convention, lorsque l'arbitrage doit s'effectuer dans le lieu de compétence des tribunaux prévus à l'article 28, alinéa (1).

#### *Article 33*

Sous réserve des dispositions de l'alinéa (3) de l'article 5, rien dans la présente Convention ne peut empêcher un transporteur de refuser la conclusion d'un contrat de transport ou de formuler des règlements qui ne sont pas en contradiction avec les dispositions de la présente Convention.



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#### Article 34

Les dispositions des articles 3 à 8 inclus relatives aux titres de transport ne sont pas applicables au transport effectué dans des circonstances extraordinaires en dehors de toute opération normale de l'exploitation aérienne.

#### Article 35

Lorsque dans la présente Convention il est question de jours, il s'agit de jours courants et non de jours ouvrables.

#### Article 35A

Rien dans la présente Convention ne prohibe l'institution par un Etat et l'application sur son territoire d'un système d'indemnisation complémentaire à celui prévu par la présente Convention en faveur des demandeurs dans le cas de mort ou de lésions corporelles d'un passager. Un tel système doit satisfaire aux conditions suivantes:

- (a) en aucun cas il ne doit imposer au transporteur et à ses préposés une responsabilité quelconque s'ajoutant à celle stipulée par la Convention;
- (b) il ne doit imposer au transporteur aucune charge financière ou administrative autre que la perception dans ledit Etat des contributions des passagers, s'il en est requis;
- (c) il ne doit donner lieu à aucune discrimination entre les transporteurs en ce qui concerne les passagers intéressés et les avantages que ces derniers peuvent retirer du système doivent leur être accordés quel que soit le transporteur dont ils ont utilisé les services;
- (d) lorsqu'un passager a contribué au système, toute personne ayant subi des dommages à la suite de la mort ou de lésions corporelles de ce passager pourra prétendre à bénéficier des avantages du système.

#### Article 40A

- (1) .....
- (2) Aux fins de la Convention, le mot territoire signifie non seulement le territoire métropolitain d'un Etat, mais aussi tous les territoires qu'il représente dans les relations extérieures.

### PROTOCOLE ADDITIONNEL

#### Ad Article 2]

Les Hautes Parties Contractantes se réservent le droit de déclarer au moment de la ratification ou de l'adhésion que l'article 2, alinéa 1er, de la présente Convention ne s'appliquera pas aux transports internationaux aériens effectués directement par l'Etat, ses colonies, protectorats, territoires sous mandat ou tout autre territoire sous sa souveraineté, sa suzeraineté ou son autorité.

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## [<sup>F61</sup>SCHEDULE 1A

### THE WARSAW CONVENTION WITH THE AMENDMENTS MADE IN IT BY THE HAGUE PROTOCOL AND PROTOCOL NO. 4 OF MONTREAL, 1975

#### Textual Amendments

**F61** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## [<sup>F62</sup>PART 1

### THE ENGLISH TEXT

#### Textual Amendments

**F62** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### CONVENTION for the Unification of Certain Rules relating to International Carriage by Air

## [<sup>F63</sup>CHAPTER I

### SCOPE—DEFINITIONS

#### Textual Amendments

**F63** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## [<sup>F64</sup>ARTICLE 1

#### Textual Amendments

**F64** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F65</sup>(1) This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

(2) For the purposes of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High

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Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.

- (3) Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

#### Textual Amendments

**F65** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

**F65** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## <sup>F66</sup>ARTICLE 2

#### Textual Amendments

**F66** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- <sup>F67</sup>(1) This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.
- (2) In the carriage of postal items the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.
- (3) Except as provided in paragraph (2) of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

#### Textual Amendments

**F67** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

**F67** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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## F68 CHAPTER II

### DOCUMENTS OF CARRIAGE

#### Textual Amendments

F68 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## F69 SECTION 1

### —PASSENGER TICKET

#### Textual Amendments

F69 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## F70 ARTICLE 3

#### Textual Amendments

F70 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- F71(1) In respect of the carriage of passengers a ticket shall be delivered containing:
- (a) an indication of the places of departure and destination;
  - (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
  - (c) a notice to the effect that, if the passenger's journey involves 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 for death or personal injury and in respect of loss of or damage to baggage.
- (2) The passenger ticket shall constitute *prima facie* evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph (1)(c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.

#### Textual Amendments

F71 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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#### Textual Amendments

**F71** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## <sup>F72</sup>SECTION 2

### —BAGGAGE CHECK

#### Textual Amendments

**F72** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## <sup>F73</sup>ARTICLE 4

#### Textual Amendments

**F73** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F74</sup>(1) In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, paragraph (1), shall contain:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- (c) a notice to the effect that, if the carriage involves 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 or damage to baggage.

(2) The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, paragraph (1) (c)) does not include the notice required by paragraph (1)(c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph (2).

#### Textual Amendments

**F74** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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**Textual Amendments**

**F74** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**<sup>F75</sup>SECTION 3**

**—DOCUMENTATION RELATING TO CARGO**

**Textual Amendments**

**F75** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**<sup>F76</sup>ARTICLE 5**

**Textual Amendments**

**F76** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- <sup>F77</sup>(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 a 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.

**Textual Amendments**

**F77** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**Textual Amendments**

**F77** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**<sup>F78</sup>ARTICLE 6**

**Textual Amendments**

**F78** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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- <sup>F79</sup>(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 shall be marked “for the consignee”; it shall be signed by the consignor and 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.

**Textual Amendments**

**F79** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**Textual Amendments**

**F79** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F80</sup> **ARTICLE 7**

**Textual Amendments**

**F80** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F81</sup>Where there is more than one package:

- (a) the carrier of the 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.

**Textual Amendments**

**F81** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**Textual Amendments**

**F81** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F82</sup> **ARTICLE 8**

**Textual Amendments**

**F82** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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<sup>F83</sup>The air waybill and receipt for the cargo shall contain:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
- (c) an indication of the weight of the consignment.

**Textual Amendments**

**F83** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**Textual Amendments**

**F83** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F84</sup>**ARTICLE 9**

**Textual Amendments**

**F84** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F85</sup>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, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

**Textual Amendments**

**F85** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**Textual Amendments**

**F85** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F86</sup>**ARTICLE 10**

**Textual Amendments**

**F86** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F87</sup>(1) The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by him or on his behalf in the air waybill or furnished by him or on his behalf to the carrier for insertion in the receipt for the cargo or for insertion in the record preserved by the other means referred to in paragraph (2) of Article 5.



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- (2) The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on his behalf.
- (3) Subject to the provisions of paragraphs (1) and (2) of this Article, the carrier shall indemnify the consignor against all damage suffered by him, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on his behalf in the receipt for the cargo or in the record preserved by the other means referred to in paragraph (2) of Article 5.

#### Textual Amendments

**F87** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

**F87** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### <sup>F88</sup>ARTICLE 11

#### Textual Amendments

**F88** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- <sup>F89</sup>(1) The air waybill or the receipt for the cargo is *prima facie* evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.
- (2) Any statements in the air waybill or the receipt for the cargo relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

#### Textual Amendments

**F89** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

**F89** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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## F90 ARTICLE 12

### Textual Amendments

**F90** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- <sup>F91</sup>(1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.
- (2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.
- (3) If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the receipt for the cargo delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the receipt for the cargo.
- (4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

### Textual Amendments

**F91** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### Textual Amendments

**F91** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## F92 ARTICLE 13

### Textual Amendments

**F92** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- <sup>F93</sup>(1) Except when the consignor has exercised his right under Article 12, the consignee is entitled, on the arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage.

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- (2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
- (3) If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

#### Textual Amendments

**F93** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

**F93** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### <sup>F94</sup> ARTICLE 14

#### Textual Amendments

**F94** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F95</sup>The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract of carriage.

#### Textual Amendments

**F95** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

**F95** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### <sup>F96</sup> ARTICLE 15

#### Textual Amendments

**F96** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- <sup>F97</sup>(1) Articles 12, 13 and 14 do not affect the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
- (2) The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the receipt for the cargo.

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**Textual Amendments**

**F97** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

**Textual Amendments**

**F97** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

<sup>F98</sup>**ARTICLE 16**

**Textual Amendments**

**F98** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

- <sup>F99</sup>(1) The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is 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, his servants or agents.
- (2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

**Textual Amendments**

**F99** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

**Textual Amendments**

**F99** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

<sup>F100</sup>**CHAPTER III**

**LIABILITY OF THE CARRIER**

**Textual Amendments**

**F100** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

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## F101 ARTICLE 17

### Textual Amendments

**F101** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

F102 The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

### Textual Amendments

**F102** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### Textual Amendments

**F102** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## F103 ARTICLE 18

### Textual Amendments

**F103** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- F104 (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, any registered baggage, if the occurrence which caused the damage so sustained took place during the carriage by air.
- (2) The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the occurrence which caused the damage so sustained took place during the carriage by air.
- (3) However, the carrier is not liable if he proves that the destruction, loss of, or damage to, the cargo resulted solely from one or more of the following:
- (a) inherent defect, quality or vice of that cargo;
  - (b) defective packing of that cargo performed by a person other than the carrier or his servants or agents;
  - (c) an act of war or an armed conflict;
  - (d) an act of a public authority carried out in connection with the entry, exit or transit of the cargo.
- (4) The carriage by air within the meaning of the preceding paragraphs of this Article comprises the period during which the baggage or cargo is in the charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, in any place whatsoever.
- (5) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an airport. If, however, such carriage takes place in the

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performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

**Textual Amendments**

**F104** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**Textual Amendments**

**F104** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**<sup>F105</sup>ARTICLE 19**

**Textual Amendments**

**F105** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F106</sup>The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.

**Textual Amendments**

**F106** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**Textual Amendments**

**F106** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**<sup>F107</sup>ARTICLE 20**

**Textual Amendments**

**F107** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F108</sup>In the case of passengers and baggage, and in the case of damage occasioned by delay in the carriage of cargo, the carrier shall not be liable if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.

**Textual Amendments**

**F108** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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### Textual Amendments

**F108** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## <sup>F109</sup> ARTICLE 21

### Textual Amendments

**F109** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- <sup>F110</sup>(1) In the carriage of passengers and baggage, if the carrier proves that the damage was caused by or contributed to by the negligence of the person suffering the damage the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.
- (2) In the carriage of cargo, if the carrier proves that the damage was caused by or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he derives his rights, the carrier shall be wholly or partly exonerated from his liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

### Textual Amendments

**F110** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### Textual Amendments

**F110** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## <sup>F111</sup> ARTICLE 22

### Textual Amendments

**F111** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- <sup>F112</sup>(1) In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 16,600 Special Drawing Rights. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.
- (2) (a) In the carriage of registered baggage, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the passenger or consignor has made, at the same time when the package was handed over to the carrier, a special declaration or interest in delivery at destination and

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- has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or the consignor's actual interest in delivery at destination.
- (b) In the carriage of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the same time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the consignor's actual interest in delivery at destination.
- (c) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.
- (3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.
- (4) The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.
- (5) The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of judgment.
- (6) The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party. Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph (2)(b) of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of two hundred and fifty monetary units per kilogramme. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. This sum may be converted into the national currency concerned in round figures. The conversion of this sum into national currency shall be made according to the law of the State concerned.



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#### Textual Amendments

F112 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

F112 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### F113 ARTICLE 23

#### Textual Amendments

F113 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F114</sup>(1) Any provision tending to relieve the carrier of liability or to fix a lower limit than that laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

(2) Paragraph (1) of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

#### Textual Amendments

F114 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

F114 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### F115 ARTICLE 24

#### Textual Amendments

F115 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F116</sup>(1) In the carriage of passengers and baggage, any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention, without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights.

(2) In the carriage of cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and limits of liability set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are

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their respective rights. Such limits of liability constitute maximum limits and may not be exceeded whatever the circumstances which give rise to the liability.

**Textual Amendments**

**F116** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**Textual Amendments**

**F116** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**<sup>F117</sup>ARTICLE 25**

**Textual Amendments**

**F117** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F118</sup>In the carriage of passengers and baggage, the limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.

**Textual Amendments**

**F118** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**Textual Amendments**

**F118** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

**<sup>F119</sup>ARTICLE 25A**

**Textual Amendments**

**F119** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- <sup>F120</sup>(1) If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is able to invoke under Article 22.
- (2) The aggregate of the amounts recoverable from the carrier, his servants or agents, in that case, shall not exceed the said limits.

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- (3) In the carriage of passengers and baggage, the provisions of paragraphs (1) and (2) of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

#### Textual Amendments

**F120** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

#### Textual Amendments

**F120** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

### <sup>F121</sup>ARTICLE 26

#### Textual Amendments

**F121** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

- <sup>F122</sup>(1) Receipt by the person entitled to delivery of baggage or cargo 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 seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo has 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.

#### Textual Amendments

**F122** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

#### Textual Amendments

**F122** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

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## F123 ARTICLE 27

### Textual Amendments

F123 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

F124 In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

### Textual Amendments

F124 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### Textual Amendments

F124 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## F125 ARTICLE 28

### Textual Amendments

F125 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

F126(1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the court having jurisdiction at the place of destination.

(2) Questions of procedure shall be governed by the law of the court seised of the case.

### Textual Amendments

F126 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### Textual Amendments

F126 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## F127 ARTICLE 29

### Textual Amendments

F127 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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- <sup>F128</sup>(1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
- (2) The method of calculating the period of limitation shall be determined by the law of the court seised of the case.

#### Textual Amendments

**F128** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

#### Textual Amendments

**F128** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

### <sup>F129</sup>ARTICLE 30

#### Textual Amendments

**F129** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

- <sup>F130</sup>(1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.
- (2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.
- (3) As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

#### Textual Amendments

**F130** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

#### Textual Amendments

**F130** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

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### F131 ARTICLE 30A

#### Textual Amendments

F131 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

F132 Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

#### Textual Amendments

F132 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

F132 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### F133 CHAPTER IV

#### PROVISIONS RELATING TO COMBINED CARRIAGE

#### Textual Amendments

F133 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### F134 ARTICLE 31

#### Textual Amendments

F134 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

- F135 (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that carriage by air falls within the terms of Article 1.
- (2) Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

#### Textual Amendments

F135 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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#### Textual Amendments

**F135** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### <sup>F136</sup>CHAPTER V

#### GENERAL AND FINAL PROVISIONS

#### Textual Amendments

**F136** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### <sup>F137</sup>ARTICLE 32

#### Textual Amendments

**F137** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F138</sup>Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

#### Textual Amendments

**F138** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

#### Textual Amendments

**F138** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### <sup>F139</sup>ARTICLE 33

#### Textual Amendments

**F139** Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

<sup>F140</sup>Except as provided in paragraph (3) of Article 5, nothing in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage or from making regulations which do not conflict with the provisions of this Convention.

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**Textual Amendments**

F140 [Sch. 1A](#) inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), [Sch.](#)

**Textual Amendments**

F140 [Sch. 1A](#) inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), [Sch.](#)

**F141 ARTICLE 34**

**Textual Amendments**

F141 [Sch. 1A](#) inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), [Sch.](#)

F142 The provisions of Articles 3 to 8 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

**Textual Amendments**

F142 [Sch. 1A](#) inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), [Sch.](#)

**Textual Amendments**

F142 [Sch. 1A](#) inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), [Sch.](#)

**F143 ARTICLE 35**

**Textual Amendments**

F143 [Sch. 1A](#) inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), [Sch.](#)

F144 The expression "days" when used in this Convention means current days not working days.

**Textual Amendments**

F144 [Sch. 1A](#) inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), [Sch.](#)

**Textual Amendments**

F144 [Sch. 1A](#) inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), [Sch.](#)



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## F145 ARTICLE 36

### Textual Amendments

F145 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

F146 The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry of Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

### Textual Amendments

F146 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### Textual Amendments

F146 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

## F147 ARTICLE 40A

### Textual Amendments

F147 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

F148(1) [*This paragraph is not reproduced. It defines “High Contracting Part”y.*]

(2) For the purposes of the Convention the word *territory* means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that state is responsible.

### Textual Amendments

F148 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

### Textual Amendments

F148 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

F149 [*Articles 37, 38, 39, 40 and 41 and the concluding words of the Convention are not reproduced. They deal with the coming into force of the Convention.*]

### Textual Amendments

F149 Sch. 1A inserted (21.5.1999) by S.I. 1999/1312, art. 2(6), Sch.

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**Textual Amendments**

**F149** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

**<sup>F150</sup> ADDITIONAL PROTOCOL**

**Textual Amendments**

**F150** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

**(With reference to Article 2)**

<sup>F151</sup>The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

**Textual Amendments**

**F151** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

**Textual Amendments**

**F151** [Sch. 1A](#) inserted (21.5.1999) by [S.I. 1999/1312](#), art. 2(6), [Sch.](#)

**[<sup>F152</sup>PART II**

**CONVENTION**

**Textual Amendments**

**F152** [Sch. 1A Pt. II](#) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), art. 2(26), [Sch. 2](#) (with art. 1(3))

POUR L'UNIFICATION DE CERTAINES REGLES RELATIVES AU TRANSPORT AERIEN INTERNATIONAL

**<sup>F153</sup>CHAPITRE 1<sup>ER</sup>**

**OBJET-DEFINITIONS**

**Textual Amendments**

**F153** [Sch. 1A Pt. II](#) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), art. 2(26), [Sch. 2](#) (with art. 1(3))

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#### F154 Article 1<sup>er</sup>

- (1) La présente Convention s'applique à tout transport international de personnes, bagages ou marchandises, effectué par aéronef contre rémunération. Elle s'applique également aux transports gratuits effectués par aéronef par une entreprise de transports aériens.
- (2) Est qualifié transport international, au sens de la présente Convention, tout transport dans lequel, d'après les stipulations des parties, le point de départ et le point de destination, qu'il y ait ou non interruption de transport ou transbordement, sont situés soit sur le territoire de deux Hautes Parties Contractantes, soit sur le territoire d'une seule Haute Partie Contractante si une escale est prévue sur le territoire d'un autre Etat, même si cet Etat n'est pas une Haute Partie Contractante. Le transport sans une telle escale entre deux points du territoire d'une seule Haute Partie Contractante n'est pas considéré comme international au sens de la présente Convention.
- (3) Le transport à exécuter par plusieurs transporteurs par air successifs est censé constituer pour l'application de la présente Convention un transport unique lorsqu'il a été envisagé par les parties comme une seule opération, qu'il ait été conclu sous la forme d'un seul contrat ou d'une série de contrats, et il ne perd pas son caractère international par le fait qu'un seul contrat ou une série de contrats doivent être exécutés intégralement dans le territoire d'un meme Etat.

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#### Textual Amendments

**F154** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### F155 Article 2

- (1) La Convention s'applique aux transports effectués par l'Etat ou les autres personnel juridiques de droit public, dans les conditions prévues à l'article 1<sup>er</sup>.
- (2) Dans le transport des envois postaux, le transporteur n'est responsable qu'envers l'administration postale compétente conformément aux règles applicables dans les rapports entre les transporteurs et les administrations postales.
- (3) Les dispositions de la présente Convention autres que celles de l'alinéa 2 ci-dessus ne s'appliquent pas au transport des envois postaux.

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#### Textual Amendments

**F155** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

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## F156 CHAPITRE II

### TITRE DE TRANSPORT

#### Textual Amendments

**F156** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

## F157 SECTION I—

### BILLET DE PASSAGE

#### Textual Amendments

**F157** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### F158 Article 3

- (1) Dans le transport de passagers, un billet de passage doit être délivré, contenant:
  - (a) l'indication des points de départ et de destination;
  - (b) si les points de départ et de destination sont situés sur le territoire d'une même Haute Partie Contractante et qu'une ou plusieurs escales soient prévues sur le territoire d'un autre Etat, l'indication d'une de ces escales;
  - (c) un avis indiquant que si les passagers entreprennent un voyage comportant une destination finale ou une escale dans un pays autre que le pays de départ, leur transport peut être régi par la Convention de Varsovie qui, en général, limite la responsabilité du transporteur en cas de mort ou de lésion corporelle, ainsi qu'en cas de perte ou d'avarie des bagages.
- (2) Le billet de passage fait foi, jusqu'à preuve contraire, de la conclusion et des conditions du contrat de transport. L'absence, l'irrégularité ou la perte du billet n'affecte ni l'existence ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention. Toutefois, si, du consentement du transporteur, le passager s'embarque sans qu'un billet de passage ait été délivré, ou si le billet ne comporte pas l'avis prescrit à l'alinéa 1 (c) du présent article, le transporteur n'aura pas le droit de se prévaloir des dispositions de l'article 22.

#### Textual Amendments

**F158** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

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## <sup>F159</sup>SECTION 2—

### BULLETIN DE BAGAGES

#### Textual Amendments

**F159** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F160</sup> Article 4

- (1) Dans le transport de bagages enregistrés, un bulletin de bagages doit être délivré qui, s'il n'est pas combiné avec un billet de passage conforme aux dispositions de l'article 3, alinéa 1<sup>er</sup> ou n'est pas inclus dans un tel billet, doit contenir:
- (a) l'indication des points de départ et de destination;
  - (b) si les points de départ et de destination sont situés sur le territoire d'une même Haute Partie Contractante et qu'une ou plusieurs escales soient prévues sur le territoire d'un autre Etat, l'indication d'une de ces escales;
  - (c) un avis indiquant que, si le transport comporte une destination finale ou une escale dans un pays autre que le pays de départ, il peut être régi par la Convention de Varsovie qui, en général, limite la responsabilité du transporteur en cas de perte ou d'avarie des bagages.
- (2) Le bulletin de bagages fait foi, jusqu'à preuve contraire, de l'enregistrement des bagages et des conditions du contrat de transport. L'absence, l'irrégularité ou la perte du bulletin n'affecte ni l'existence ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention. Toutefois, si le transporteur accepte la garde des bagages sans qu'un bulletin ait été délivré ou si, dans le cas où le bulletin n'est pas combiné avec un billet de passage conforme aux dispositions de l'article 3, alinéa 1 (c), ou n'est pas inclus dans un tel billet, il ne comporte pas l'avis prescrit à l'alinéa 1 (c) du présent article, le transporteur n'aura pas le droit de se prévaloir des dispositions de l'article 22, alinéa 2.

#### Textual Amendments

**F160** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

## <sup>F161</sup>SECTION III.—

### DOCUMENTATION RELATIVE AUX MARCHANDISES

#### Textual Amendments

**F161** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

*Status: Point in time view as at 31/12/2020. This version of this Act contains provisions that are prospective.*  
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<sup>F162</sup> Article 5

- (1) Pour le transport de marchandises une lettre de transport aérien est émise.
- (2) L'emploi de tout autre moyen constatant les indications relatives au transport à exécuter peut, avec le consentement de l'expéditeur, se substituer à l'émission de la lettre de transport aérien. Si de tels autres moyens sont utilisés, le transporteur délivre l'expéditeur, à la demande de ce dernier, un récépissé de la marchandise permettant l'identification de l'expédition et l'accès aux indications enregistrées par ces autres moyens.
- (3) L'impossibilité d'utiliser, aux points de transit et de destination, les autres moyens permettant de constater les indications relatives au transport, visés à l'alinéa 2 ci-dessus, n'autorise pas le transporteur à refuser l'acceptation des marchandises en vue du transport.

**Textual Amendments**

**F162** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263, art. 2\(26\)](#), [Sch. 2](#) (with [art. 1\(3\)](#))

<sup>F163</sup> Article 6

- (1) La lettre de transport aérien est établie par l'expéditeur en trios exemplaires originaux.
- (2) Le premier exemplaire porte la mention "pour le transporteur"; il est signé par l'expéditeur. Le deuxième exemplaire porte la mention "pour le destinataire"; il est signé par l'expéditeur et le transporteur. Le troisième exemplaire est signé par le transporteur et remis par lui à l'expéditeur après acceptation de la marchandise.
- (3) La signature du transporteur et celle de l'expéditeur peuvent être imprimées ou remplacées par un timbre.
- (4) Si, à la demande de l'expéditeur, le transporteur établit la lettre de transport aérien, il est considéré, jusqu'à preuve contraire, comme agissant au nom de l'expéditeur.

**Textual Amendments**

**F163** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263, art. 2\(26\)](#), [Sch. 2](#) (with [art. 1\(3\)](#))

<sup>F164</sup> Article 7

Lorsqu'il y a plusieurs colis:

- (a) le transporteur de marchandises a le droit de demander l'expéditeur l'établissement de lettres de transport aérien distinctes;
- (b) l'expéditeur a le droit de demander au transporteur la remise de récépissés distincts, lorsque les autres moyens visés l'alinéa 2 de l'article 5 sont utilisés.

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### Textual Amendments

**F164** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F165</sup> Article 8

La lettre de transport aérien et le récépissé de la marchandise contiennent:

- (a) l'indication des points de départ et de destination;
- (b) si les points de départ et de destination sont situés sur le territoire d'une même Haute Partie Contractante et qu'une ou plusieurs escales soient prévues sur le territoire d'un autre Etat, l'indication d'une de ces escales;
- (c) la mention du poids de l'expédition.

### Textual Amendments

**F165** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F166</sup> Article 9

L'inobservation des dispositions des articles 5 à 8 n'affecte ni l'existence ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention, y compris celles qui portent sur la limitation de responsabilité.

### Textual Amendments

**F166** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F167</sup> Article 10

- (1) L'expéditeur est responsable de l'exactitude des indications et déclarations concernant la marchandise inscrites par lui ou en son nom dans la lettre de transport aérien, ainsi que de celles fournies et faites par lui ou en son nom au transporteur en vue d'être insérées dans le récépissé de la marchandise ou pour insertion dans les données enregistrées par les autres moyens prévus à l'alinéa 2 de l'article 5.
- (2) L'expéditeur assume la responsabilité de tout dommage subi par le transporteur ou par toute autre personne à l'égard de laquelle la responsabilité du transporteur est engagée, à raison des indications et déclarations irrégulières, inexactes ou incomplètes fournies et faites par lui ou en son nom.
- (3) Sous réserve des dispositions des alinéas 1 et 2 du présent article, le transporteur assume la responsabilité de tout dommage subi par l'expéditeur ou par toute autre personne à l'égard de laquelle la responsabilité de l'expéditeur est engagée, à raison des indications et déclarations irrégulières, inexactes ou incomplètes insérées par lui ou en son nom dans le récépissé de la marchandise ou dans les données enregistrées par les autres moyens prévus à l'alinéa 2 de l'article 5.

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#### Textual Amendments

**F167** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F168</sup> Article 11

- (1) La lettre de transport aérien et le récépissé de la marchandise font foi, jusqu'à preuve contraire, de la conclusion du contrat, de la réception de la marchandise et des conditions du transport qui y figurent.
- (2) Les énonciations de la lettre de transport aérien et du récépissé de la marchandise, relatives au poids, aux dimensions et à l'emballage de la marchandise ainsi qu'au nombre des colis font foi jusqu'à preuve contraire; celles relatives à la quantité, au volume et à l'état de la marchandise ne font preuve contre le transporteur qu'autant que la vérification en a été faite par lui en présence de l'expéditeur, et constatée sur la lettre de transport aérien, ou qu'il s'agit d'énonciations relatives à l'état apparent de la marchandise.

#### Textual Amendments

**F168** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F169</sup> Article 12

- (1) L'expéditeur a le droit, sous la condition d'exécuter toutes les obligations résultant du contrat de transport, de disposer de la marchandise, soit en la retirant l'aérodrome de départ ou de destination, soit en l'arrestant en cours de route lors d'un atterrissage, soit en la faisant délivrer au lieu de destination ou en cours de route à une personne autre que le destinataire initialement désigné, soit en demandant son retour à l'aérodrome de départ, pour autant que l'exercice de ce droit ne porte préjudice ni au transporteur, ni aux autres expéditeurs et avec l'obligation de rembourser les frais qui en résultent.
- (2) Dans le cas où l'exécution des ordres de l'expéditeur est impossible, le transporteur doit l'en aviser immédiatement.
- (3) Si le transporteur se conforme aux ordres de disposition de l'expéditeur, sans exiger la production de l'exemplaire de la lettre de transport aérien ou du récépissé de la marchandise délivré à celui-ci, il sera responsable, sauf son recours contre l'expéditeur, du préjudice qui pourra être causé par ce fait à celui qui est régulièrement en possession de la lettre de transport aérien ou du récépissé de la marchandise.
- (4) Le droit de l'expéditeur cesse au moment où celui du destinataire commence, conformément à l'article 13. Toutefois, si le destinataire refuse la marchandise, ou s'il ne peut être atteint, l'expéditeur reprend son droit de disposition.



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### Textual Amendments

**F169** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

### <sup>F170</sup> Article 13

- (1) Sauf lorsque l'expéditeur a exercé le droit qu'il tient de l'article 12, le destinataire a le droit, dès l'arrivée de la marchandise au point de destination, de demander au transporteur de lui livrer la marchandise contre la paiement du montant des créances et contre l'exécution des conditions de transport.
- (2) Sauf stipulation contraire, le transporteur doit aviser le destinataire dès l'arrivée de la marchandise.
- (3) Si la perte de la marchandise est reconnue par le transporteur ou si, à l'expiration d'un délai de sept jours après qu'elle aurait dû arriver, la marchandise n'est pas arrivée, le destinataire est autorisé à faire valoir vis-à-vis du transporteur les droits résultant du contrat de transport.

### Textual Amendments

**F170** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

### <sup>F171</sup> Article 14

L'expéditeur et le destinataire peuvent faire valoir tous les droits qui leur sont respectivement conférés par les articles 12 et 13, chacun en son propre nom, qu'il agisse dans son propre intérêt ou dans l'intérêt d'autrui, à condition d'exécuter les obligations que le contrat de transport impose.

### Textual Amendments

**F171** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

### <sup>F172</sup> Article 15

- (1) Les articles 12, 13 et 14 ne portent aucun préjudice ni aux rapports de l'expéditeur et du destinataire entre eux, ni aux rapports des tiers dont les droits proviennent, soit de l'expéditeur, soit du destinataire.
- (2) Toute clause dérogeant aux stipulations des articles 12, 13 et 14 doit être inscrite dans la lettre de transport aérien ou dans le récépissé de la marchandise.

### Textual Amendments

**F172** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

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<sup>F173</sup> Article 16

- (1) L'expéditeur est tenu de fournir les renseignements et les documents qui, avant la remise de la marchandise au destinataire, sont nécessaires à l'accomplissement des formalités de douane, d'octroi ou de police. L'expéditeur est responsable envers le transporteur de tous dommages qui pourraient résulter de l'absence, de l'insuffisance ou de l'irrégularité de ces renseignements et pièces, sauf le cas de faute de la part du transporteur ou de ses préposés.
- (2) Le transporteur n'est pas tenu d'examiner si ces renseignements et documents sont exacts ou suffisants.

**Textual Amendments**

**F173** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

<sup>F174</sup> CHAPITRE III

RESPONSABILITE DU TRANSPORTEUR

**Textual Amendments**

**F174** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

<sup>F175</sup> Article 17

Le transporteur est responsable du dommage survenu en cas de mort, de blessure ou de toute autre lésion corporelle subie par un voyageur lorsque l'accident qui a causé le dommage s'est produit à bord de l'aéronef ou au cours de toutes opérations d'embarquement et de débarquement.

**Textual Amendments**

**F175** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

<sup>F176</sup> Article 18

- (1) Le transporteur est responsable du dommage survenu en cas de destruction, perte ou avarie de bagages enregistrés lorsque l'événement qui a causé le dommage s'est produit pendant le transport aérien.
- (2) Le transporteur est responsable du dommage survenu en cas de destruction, perte ou avarie de la marchandise par cela seul que le fait qui a causé le dommage s'est produit pendant le transport aérien.

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- (3) Toutefois, le transporteur n'est pas responsable s'il est établi que la destruction, la perte ou l'avarie de la marchandise résulte uniquement de l'un ou de plusieurs des faits suivants:
- (a) la nature ou le vice propre de la marchandise;
  - (b) l'emballage défectueux de la marchandise par une personne autre que le transporteur ou ses préposés;
  - (c) un fait de guerre ou un conflit armé;
  - (d) un acte de l'autorité publique accompli en relation avec l'entrée, la sortie ou le transit de la marchandise.
- (4) Le transport aérien, au sens des alinéas précédents, comprend la période pendant laquelle les bagages ou marchandises se trouvent sous la garde du transporteur, que ce soit dans un aéroport ou à bord d'un aéronef ou dans un lieu quelconque en cas d'atterrissage en dehors d'un aéroport.
- (5) La période du transport aérien ne couvre aucun transport terrestre, maritime ou fluvial effectué en dehors d'un aéroport. Toutefois, lorsqu'un tel transport est effectué dans l'exécution du contrat de transport aérien en vue du chargement, de la livraison ou du transbordement, tout dommage est présumé, sauf preuve contraire, résulter d'un événement survenu pendant le transport aérien.

#### Textual Amendments

**F176** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F177</sup> Article 19

Le transporteur est responsable du dommage résultant d'un retard dans le transport aérien de voyageurs, bagages ou marchandises.

#### Textual Amendments

**F177** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F178</sup> Article 20

Dans le transport de passagers et de bagages et en cas de dommage résultant d'un retard dans le transport de marchandises, le transporteur n'est pas responsable s'il prouve que lui et ses préposés ont pris toutes les mesures nécessaires pour éviter le dommage ou qu'il leur était impossible de les prendre.

#### Textual Amendments

**F178** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F179</sup> Article 21

- (1) Dans le transport de passagers et de bagages, dans le cas où le transporteur fait la preuve que la faute de la personne lésée a causé le dommage ou y a contribué, le

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tribunal pourra, conformément aux dispositions de sa propre loi, écarter ou atténuer la responsabilité du transporteur.

- (2) Dans le transport de marchandises, le transporteur est exonéré, en tout ou en partie, de sa responsabilité dans la mesure où il prouve que la faute de la personne qui demande réparation ou de la personne dont elle tient ses droits a causé le dommage ou y a contribué.

#### Textual Amendments

**F179** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

<sup>F180</sup> Article 22

- (1) Dans le transport des personnes, la responsabilité du transporteur relative à chaque —passager est limitée à la somme de 16 600 Droits de Tirage spéciaux. Dans le cas où, d’après la loi du tribunal saisi, l’indemnité peut être fixée sous forme de rente, le capital de la rente ne peut dépasser cette limite. Toutefois par une convention spéciale avec le transporteur, le passager pourra fixer une limite de responsabilité plus élevée.
- (2)
- (a) Dans le transport de bagages enregistrés, la responsabilité du transporteur est limitée à la somme de 17 Droits de Tirage spéciaux par kilogramme, sauf déclaration spéciale d’intérêt à la livraison faite par l’expéditeur au moment de la remise du colis au transporteur et moyennant le paiement d’une taxe supplémentaire, éventuelle. Dans ce cas, le transporteur sera tenu de payer jusqu’à concurrence de la somme déclarée, à moins qu’il ne prouve qu’elle est supérieure à l’intérêt réel de l’expéditeur à la livraison.
- (b) Dans le transport de marchandises, la responsabilité du transporteur est limitée à la somme de 17 Droits de Tirage spéciaux par kilogramme, sauf déclaration spéciale d’intérêt à la livraison faite par l’expéditeur au moment de la remise du colis au transporteur et moyennant le paiement d’une taxe supplémentaire, éventuelle. Dans ce cas, le transporteur sera tenu de payer jusqu’à concurrence de la somme déclarée, à moins qu’il ne prouve qu’elle est supérieure à l’intérêt réel de l’expéditeur à la livraison.
- (c) En cas de perte, d’avarie ou de retard d’une partie des bagages enregistrés ou des marchandises, ou de tout objet qui y est contenu, seul le poids total du ou des colis dont il s’agit est pris en considération pour déterminer la limite de responsabilité du transporteur. Toutefois, lorsque la perte, l’avarie ou le retard d’une partie des bagages enregistrés ou des marchandises, ou d’un objet qui y est contenu, affecte la valeur d’autres colis couverts par le même bulletin de bagages ou la même lettre de transport aérien, le poids total de ces colis doit être pris en considération pour déterminer la limite de responsabilité.
- (3) En ce qui concerne les objets dont le passager conserve la garde, la responsabilité du transporteur est limitée à 332 Droits de Tirage spéciaux par passager.
- (4) Les limites fixées par le présent article n’ont pas pour effet d’enlever au tribunal la faculté d’allouer en outre, conformément à sa loi, une somme correspondant à tout ou partie des dépens et autres frais du procès exposés par le demandeur. La disposition

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précédente ne s'applique pas lorsque le montant de l'indemnité allouée, non compris les dépens et autres frais de procès, ne dépasse pas la somme que le transporteur a offerte par écrit au demandeur dans un délai de six mois à dater du fait qui a causé le dommage ou avant l'introduction de l'instance si celle-ci est postérieure à ce délai.

- (5) Les sommes indiquées en Droits de Tirage spéciaux dans le présent article sont considérées comme se rapportant au Droit de Tirage spécial tel que défini par le Fonds Monétaire International. La conversion de ces sommes en monnaies nationales s'effectuera en cas d'instance judiciaire suivant la valeur de ces monnaies en Droit de Tirage spécial à la date du jugement.
- (6) Les sommes indiquées en Droits de Tirage spéciaux dans le présent article sont considérées comme se rapportant au Droit de Tirage spécial tel que défini par le Fonds Monétaire International. La conversion de ces sommes en monnaies nationales s'effectuera en cas d'instance judiciaire suivant la valeur de ces monnaies en Droit de Tirage spécial à la date du jugement. La valeur, en Droit de Tirage spécial, d'une monnaie nationale d'une Haute Partie Contractante qui est membre du Fonds Monétaire International, est calculée selon la méthode d'évaluation appliquée par le Fonds Monétaire International à la date du jugement pour ses propres opérations et transactions. La valeur, en Droit de Tirage spécial, d'une monnaie nationale d'une Haute Partie Contractante qui n'est pas membre du Fonds Monétaire International, est calculée de la façon déterminée par cette Haute Partie Contractante.

Toutefois, les Etats qui ne sont pas membres du Fonds Monétaire International et dont la législation ne permet pas d'appliquer les dispositions de l'alinéa 2 (b) de l'article 22, peuvent au moment de la ratification ou de l'adhésion, ou à tout moment par la suite, déclarer que la limite de responsabilité de transporteur est fixée, dans les procédures judiciaires sur leur territoire, à la somme de deux cent cinquante unités monétaires par kilogramme, cette unité monétaire correspondant à soixante-cinq milligrammes et demi d'or au titre de neuf cents millièmes de fin. Cette somme peut être convertie dans la monnaie nationale concernée en chiffres ronds. La conversion de cette somme en monnaie nationale s'effectuera conformément à la législation de l'Etat en cause.

#### Textual Amendments

**F180** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F181</sup> Article 23

- (1) Toute clause tendant à exonérer le transporteur de sa responsabilité ou à établir une limite inférieure à celle qui est fixée dans la présente Convention est nulle et de nul effet, mais la nullité de cette clause n'entraîne pas la nullité du contrat qui reste soumis aux dispositions de la présente Convention.
- (2) L'alinéa 1<sup>er</sup> du présent article ne s'applique pas aux clauses concernant la perte ou le dommage résultant de la nature ou du vice propre des marchandises transportées.

#### Textual Amendments

**F181** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

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<sup>F182</sup> *Article 24*

- (1) Dans le transport de passagers et de bagages, toute action en responsabilité, à quelque titre que ce soit, ne peut être exercée que dans les conditions et limites prévues par la présente Convention, sans préjudice de la détermination des personnel qui ont le droit d'agir et de leurs droits respectifs.
- (2) Dans le transport de marchandises, toute action en réparation introduite, à quelque titre que ce soit, que ce soit en vertu de la présente Convention, en raison d'un contrat ou d'un acte illicite ou pour toute autre cause, ne peut être exercée que dans les conditions et limites de responsabilité prévues par la présente Convention, sans préjudice de la détermination des personne qui ont le droit d'agir et de leurs droits respectifs. Ces limites de responsabilité constituent un maximum et sont infranchissables quelles que soient les circonstances qui sont à l'origine de la responsabilité.

**Textual Amendments**

**F182** *Sch. 1A Pt. II* substituted (coming into force in accordance with art. 1(2)) by *S.I. 2002/263, art. 2(26), Sch. 2* (with art. 1(3))

<sup>F183</sup> *Article 25*

Dans le transport de passagers et de bagages, les limites de responsabilité prévues à l'article 22 ne s'appliquent pas s'il est prouvé que le dommage résulte d'un acte ou d'une omission du transporteur ou de ses préposés fait, soit avec l'intention de provoquer un dommage, soit téméairement et avec conscience qu'un dommage en résultera probablement, pour autant que, dans le cas d'un acte ou d'une omission de préposés, la preuve soit également apportée que ceux-ci ont agi dans l'exercice de leurs fonctions.

**Textual Amendments**

**F183** *Sch. 1A Pt. II* substituted (coming into force in accordance with art. 1(2)) by *S.I. 2002/263, art. 2(26), Sch. 2* (with art. 1(3))

<sup>F184</sup> *Article 25A*

- (1) Si une action est intentée contre un préposé du transporteur à la suite d'un dommage visé par la présente Convention, ce préposé, s'il prouve qu'il a agi dans l'exercice de ses fonctions, pourra se prévaloir des limites de responsabilité que peut invoquer ce transporteur en vertu de l'article 22.
- (2) Le montant total de la réparation qui, dans ce cas, peut être obtenu du transporteur et de ses préposés ne doit pas dépasser lesdites limites.
- (3) Dans le transport de passagers et de bagages, les dispositions des alinéas 1 et 2 du présent article ne s'appliquent pas s'il est prouvé que le dommage résulte d'un acte ou d'une omission du préposé fait, soit avec l'intention de provoquer un dommage, soit téméairement et avec conscience qu'un dommage en résultera probablement.

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### Textual Amendments

**F184** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F185</sup> Article 26

- (1) La réception des bagages et marchandises sans protestation par le destinataire constituera présomption, sauf preuve contraire, que les marchandises ont été livrées en bon état et conformément au titre de transport.
- (2) En cas d'avarie, le destinataire doit adresser au transporteur une protestation immédiatement après la découverte de l'avarie et, au plus tard, dans un délai de sept jours pour les bagages et de quatorze jours pour les marchandises à dater de leur réception. En cas de retard, la protestation devra être faite au plus tard dans les vingt et un jours à dater du jour où le bagage ou la marchandise auront été mis à sa disposition.
- (3) Toute protestation doit être faite par réserve inscrite sur le titre de transport ou par un autre écrit expédié dans le délai prévu pour cette protestation.
- (4) A défaut de protestation dans les délai prévus, toutes actions contre le transporteur sont irrecevables, sauf le cas de fraude de celui-ci.

### Textual Amendments

**F185** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F186</sup> Article 27

En cas de décès du débiteur, l'action en responsabilité, dans les limites prévues par la présente Convention, s'exerce contre ses ayants droit.

### Textual Amendments

**F186** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F187</sup> Article 28

- (1) L'action en responsabilité devra être portée, au choix du demandeur, dans le territoire d'une des Hautes Parties Contractantes, soit devant le tribunal du domicile du transporteur, du siège principal de son exploitation ou du lieu où il possède un établissement par la soin duquel le contrat a été conclu, soit devant le tribunal du lieu de destination.
- (2) La procédure sera réglée par la loi du tribunal saisi.

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#### Textual Amendments

**F187** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F188</sup> Article 29

- (1) L'action en responsabilité doit être intentée, sous peine de déchéance, dans le délai de deux ans à compter de l'arrivée à destination ou du jour où l'aéronef aurait du arriver, ou de l'arrêt du transport.
- (2) Le mode du calcul du délai est déterminé par la loi du tribunal saisi.

#### Textual Amendments

**F188** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F189</sup> Article 30

- (1) Dans les cas de transport régis par la définition du troisième alinéa de l'article 1<sup>er</sup> à exécuter par divers transporteurs successifs, chaque transporteur acceptant des voyageurs, des bagages ou des marchandises est soumis aux règles établies par cette Convention, et est censé être une des parties contractantes du contrat de transport, pour autant que ce contrat ait trait à la partie du transport effectué sous son contrôle.
- (2) Au cas d'un tel transport, le voyageur ou ses ayants droit ne pourront recourir que contre le transporteur ayant effectué le transport au cours duquel l'accident ou le retard s'est produit, sauf dans le cas où, par stipulation expresse, le premier transporteur aura assuré la responsabilité pour tout le voyage.
- (3) S'il s'agit de bagages ou de marchandises, l'expéditeur aura recours contre le premier transporteur et le destinataire qui a le droit à la délivrance contre le dernier, et l'un et l'autre pourront, en outre, agir contre le transporteur ayant effectué le transport au cours duquel la destruction, la perte, l'avarie ou le retard se sont produits. Ces transporteurs seront solidairement responsables envers l'expéditeur et le destinataire.

#### Textual Amendments

**F189** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F190</sup> Article 30A

La présente Convention ne préjuge en aucune manière la question de savoir si la personne tenue pour responsable en vertu de ses dispositions a ou non un recours contre toute autre personne.



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#### Textual Amendments

**F190** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

### <sup>F191</sup>CHAPITRE IV

#### DISPOSITIONS RELATIVES AUX TRANSPORTS COMINÉS

#### Textual Amendments

**F191** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F192</sup> Article 31

- (1) Dans le cas de transports combinés effectués en partie par air et en partie par tout autre moyen de transport, les stipulations de la présente Convention ne s'appliquent qu'au transport aérien et si celui-ci répond aux conditions de l'article 1<sup>er</sup>.
- (2) Rien dans la présente Convention n'empêche les parties, dans le cas de transports combinés, d'insérer dans le titre de transport aérien des conditions relatives à d'autres modes de transport, à condition que les stipulations de la présente Convention soient respectées en ce qui concerne le transport par air.

#### Textual Amendments

**F192** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

### <sup>F193</sup>CHAPITRE V

#### DISPOSITIONS GÉNÉRALES ET FINALES

#### Textual Amendments

**F193** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

#### <sup>F194</sup> Article 32

Sont nulles toutes clauses du contrat de transport et toutes conventions particulières antérieures au dommage par lesquelles les parties dérogeraient aux règles de la présente Convention soit par une détermination de la loi applicable, soit par une modification des règles de compétence. Toutefois, dans le transport des marchandises, les clauses d'arbitrage sont admises, dans les limites de la présente Convention, lorsque l'arbitrage doit s'effectuer dans les lieux de compétence des tribunaux prévus à l'article 28, alinéa 1.

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**Textual Amendments**

**F194** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

<sup>F195</sup> Article 33

Sous réserve des dispositions de l’alinéa 3 de l’article 5, rien dans la présente Convention ne peut empêcher un transporteur de refuser la conclusion d’un contrat de transport ou de fommuler des règlements qui ne sont pas en contradiction avec les dispositions de la présente Convention.

**Textual Amendments**

**F195** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

<sup>F196</sup> Article 34

Les dispositions des articles 3 à 8 inclus relatives aux titres de transport ne sont pas applicables au transport effectué dans des circonstances extraordinaires en dehors de toute opération normale de l’exploitation aérienne.

**Textual Amendments**

**F196** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

<sup>F197</sup> Article 35

Lorsque dans la présente Convention il est question de jours, il s’agit de jours courants et non de jours ouvrables.

**Textual Amendments**

**F197** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

<sup>F198</sup> Article 36

La présente Convention est rédigée en français en un seul exemplaire qui restera déposé aux archives du Ministère des Affaires Etrangères de Pologne, et dont une copie certifiée conforme sera transmise par les soins du Gouvernement polonais au Gouvernement de chacune des Hautes Parties Contractantes.

**Textual Amendments**

**F198** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

<sup>F199</sup> Article 40A

(1) .....

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- (2) Aux fins de la Convention, le mot *territoire* signifie non seulement le territoire métropolitain d'un Etat, mais aussi tous les territoires qu'il représente dans les relations extérieures.]

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**Textual Amendments**

**F199** Sch. 1A Pt. II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2 (with art. 1(3))

**CHAPITRE 1ER**

**OBJET—DEFINITIONS**

**ARTICLE 1ER**

**ARTICLE 2**

**CHAPITRE II**

**TITRE DE TRANSPORT**

**SECTION I**

**—BILLET DE PASSAGE**

**ARTICLE 3**

**SECTION II**

**—BULLETIN DE BAGAGES**

**ARTICLE 4**

**SECTION III.**

**—DOCUMENTATION RELATIVE AUX MARCHANDISES**

**ARTICLE 5**

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1

Pour le transport de marchandises une lettre de transport aérien est émise.

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.....

2 L'emploi de tout autre moyen constatant les indications relatives au transport à exécuter peut, avec le consentement de l'expéditeur, se substituer à l'émission de la lettre de transport aérien. Si de tels autres moyens sont utilisés, le transporteur délivre à l'expéditeur, à la demande de ce dernier, un récépissé de la marchandise permettant l'identification de l'expédition et l'accès aux indications enregistrées par ces autres moyens.

.....

3 L'impossibilité d'utiliser, aux points de transit et de destination, les autres moyens permettant de constater les indications relatives au transport, visés à l'alinéa 2 ci-dessus, n'autorise pas le transporteur à refuser l'acceptation des marchandises en vue du transport.

## ARTICLE 6

.....

1 La lettre de transport aérien est établie par l'expéditeur en trois exemplaires originaux.

.....

2 Le premier exemplaire porte la mention "pour le transporteur"; il est signé par l'expéditeur. Le deuxième exemplaire porte la mention "pour le destinataire"; il est signé par l'expéditeur et le transporteur. Le troisième exemplaire est signé par le transporteur et remis par lui à l'expéditeur après acceptation de la marchandise.

.....

3 La signature du transporteur et celle de l'expéditeur peuvent être imprimées ou remplacées par un timbre.

.....

4 Si, à la demande de l'expéditeur, le transporteur établit la lettre de transport aérien, il est considéré, jusqu'à preuve contraire, comme agissant au nom de l'expéditeur.

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## ARTICLE 7

## ARTICLE 8

## ARTICLE 9

## ARTICLE 10

.....  
1 L'expéditeur est responsable de l'exactitude des indications et déclarations concernant la marchandise inscrites par lui ou en son nom dans la lettre de transport aérien, ainsi que de celles fournies et faites par lui ou en son nom au transporteur en vue d'être insérées dans le récépissé de la marchandise ou pour insertion dans les données enregistrées par les autres moyens prévus à l'alinéa 2 de l'article 5.

.....  
2 L'expéditeur assume la responsabilité de tout dommage subi par le transporteur ou par toute autre personne à l'égard de laquelle la responsabilité du transporteur est engagée, à raison des indications et déclarations irrégulières, inexactes ou incomplètes fournies et faites par lui ou en son nom.

.....  
3 Sous réserve des dispositions des alinéas 1 et 2 du présent article, le transporteur assume la responsabilité de tout dommage subi par l'expéditeur ou par toute autre personne à l'égard de laquelle la responsabilité de l'expéditeur est engagée, à raison des indications et déclarations irrégulières, inexactes ou incomplètes insérées par lui ou en son nom dans le récépissé de la marchandise ou dans les données enregistrées par les autres moyens prévus à l'alinéa 2 de l'article 5.

## ARTICLE 11

.....  
1 La lettre de transport aérien et le récépissé de la marchandise font foi, jusqu'à preuve contraire, de la conclusion du contrat, de la réception de la marchandise et des conditions du transport qui y figurent.

.....  
2 Les énonciations de la lettre de transport aérien et du récépissé de la marchandise, relatives au poids, aux dimensions et à l'emballage de la marchandise ainsi qu'au nombre des colis font foi jusqu'à preuve contraire; celles relatives à la quantité, au volume et à l'état de la marchandise ne font preuve contre le transporteur qu'autant que la vérification en a été faite par lui en présence de l'expéditeur, et constatée sur la lettre de transport aérien, ou qu'il s'agit d'énonciations relatives à l'état apparent de la marchandise.

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## ARTICLE 12

.....

1 L'expéditeur a le droit, sous la condition d'exécuter toutes les obligations résultant du contrat de transport, de disposer de la marchandise, soit en la retirant à l'aérodrome de départ ou de destination, soit en l'arrêtant en cours de route lors d'un atterrissage, soit en la faisant délivrer au lieu de destination ou en cours de route à une personne autre que le destinataire initialement désigné, soit en demandant son retour à l'aérodrome de départ, pour autant que l'exercice de ce droit ne porte préjudice ni au transporteur, ni aux autres expéditeurs et avec l'obligation de rembourser les frais qui en résultent.

.....

2 Dans le cas où l'exécution des ordres de l'expéditeur est impossible, le transporteur doit l'en aviser immédiatement.

.....

3 Si le transporteur se conforme aux ordres de disposition de l'expéditeur, sans exiger la production de l'exemplaire de la lettre de transport aérien ou du récépissé de la marchandise délivré à celui-ci, il sera responsable, sauf son recours contre l'expéditeur, du préjudice qui pourra être causé par ce fait à celui qui est régulièrement en possession de la lettre de transport aérien ou du récépissé de la marchandise.

.....

4 Le droit de l'expéditeur cesse au moment où celui du destinataire commence, conformément à l'article 13. Toutefois, si le destinataire refuse la marchandise, ou s'il ne peut être atteint, l'expéditeur reprend son droit de disposition.

## ARTICLE 13

.....

1 Sauf lorsque l'expéditeur a exercé le droit qu'il tient de l'article 12, le destinataire a le droit, dès l'arrivée de la marchandise au point de destination, de demander au transporteur de lui livrer la marchandise contre le paiement du montant des créances et contre l'exécution des conditions de transport.

.....

2 Sauf stipulation contraire, le transporteur doit aviser le destinataire dès l'arrivée de la marchandise.

.....

3 Si la perte de la marchandise est reconnue par le transporteur ou si, à l'expiration d'un délai de sept jours après qu'elle aurait dû arriver, la marchandise n'est pas

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arrivée, le destinataire est autorisé à faire valoir vis-à-vis du transporteur les droits résultant du contrat de transport.

#### ARTICLE 14

#### ARTICLE 15

.....

1 Les articles 12, 13 et 14 ne portent aucun préjudice ni aux rapports de l'expéditeur et du destinataire entre eux, ni aux rapports des tiers dont les droits proviennent, soit de l'expéditeur, soit du destinataire.

.....

2 Toute clause dérogeant aux stipulations des articles 12, 13 et 14 doit être inscrite dans la lettre de transport aérien ou dans le récépissé de la marchandise.

#### ARTICLE 16

.....

1 L'expéditeur est tenu de fournir les renseignements et les documents qui, avant la remise de la marchandise au destinataire, sont nécessaires à l'accomplissement des formalités de douane, d'octroi ou de police. L'expéditeur est responsable envers le transporteur de tous dommages qui pourraient résulter de l'absence, de l'insuffisance ou de l'irrégularité de ces renseignements et pièces, sauf le cas de faute de la part du transporteur ou de ses préposés.

.....

2 Le transporteur n'est pas tenu d'examiner si ces renseignements et documents sont exacts ou suffisants.

### CHAPITRE III

#### RESPONSABILITE DU TRANSPORTEUR

#### ARTICLE 17

#### ARTICLE 18

.....

1 Le transporteur est responsable du dommage survenu en cas de destruction, perte ou avarie de bagages enregistrés lorsque l'événement qui a causé le dommage s'est produit pendant le transport aérien.

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.....

2           Le transporteur est responsable du dommage survenu en cas de destruction, perte ou avarie de la marchandise par cela seul que le fait qui a causé le dommage s'est produit pendant le transport aérien.

.....

3           Toutefois, le transporteur n'est pas responsable s'il établit que la destruction, la perte ou l'avarie de la marchandise résulte uniquement de l'un ou de plusieurs des faits suivants:

- (a) la nature ou le vice propre de la marchandise;
- (b) l'emballage défectueux de la marchandise par une personne autre que le transporteur ou ses préposés;
- (c) un fait de guerre ou un conflit armé;
- (d) un acte de l'autorité publique accompli en relation avec l'entrée, la sortie ou le transit de la marchandise.

.....

4           Le transport aérien, au sens des alinéas précédents, comprend la période pendant laquelle les bagages ou marchandises se trouvent sous la garde du transporteur, que ce soit dans un aéroport ou à bord d'un aéronef ou dans un lieu quelconque en cas d'atterrissage en dehors d'un aéroport.

.....

5           La période du transport aérien ne couvre aucun transport terrestre, maritime ou fluvial effectué en dehors d'un aéroport. Toutefois, lorsqu'un tel transport est effectué dans l'exécution du contrat de transport aérien en vue du chargement, de la livraison ou du transbordement, tout dommage est présumé, sauf preuve contraire, résulter d'un événement survenu pendant le transport aérien.

## ARTICLE 19

## ARTICLE 20

## ARTICLE 21

.....

1           Dans le transport de passagers et de bagages, dans le cas où le transporteur fait la preuve que la faute de la personne lésée a causé le dommage ou y a contribué, le tribunal pourra, conformément aux dispositions de sa propre loi, écarter ou atténuer la responsabilité du transporteur.

.....

2           Dans le transport de marchandises, le transporteur est exonéré, en tout ou en partie, de sa responsabilité dans la mesure où il prouve que la faute de la personne qui



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demande réparation ou de la personne dont elle tient ses droits a causé le dommage ou y a contribué.

**ARTICLE 22**

**ARTICLE 23**

**ARTICLE 24**

.....

1 Dans le transport de passagers et de bagages, toute action en responsabilité, à quelque titre que ce soit, ne peut être exercée que dans les conditions et limites prévues par la présente Convention, sans préjudice de la détermination des personnes qui ont le droit d’agir et de leurs droits respectifs.

.....

2 Dans le transport de marchandises, toute action en réparation introduite, à quelque titre que ce soit, que ce soit en vertu de la présente Convention, en raison d’un contrat ou d’un acte illicite ou pour toute autre cause, ne peut être exercée que dans les conditions et limites de responsabilité prévues par la présente Convention, sans préjudice de la détermination des personnes qui ont le droit d’agir et de leurs droits respectifs. Ces limites de responsabilité constituent un maximum et sont infranchissables quelles que soient les circonstances qui sont à l’origine de la responsabilité.

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**ARTICLE 25**

**ARTICLE 25A**

**ARTICLE 26**

**ARTICLE 27**

**ARTICLE 28**

**ARTICLE 29**

**ARTICLE 30**

**ARTICLE 30A**

**CHAPITRE IV**

**DISPOSITIONS RELATIVES AUX TRANSPORTS COMBINÉS**

**ARTICLE 31**

**CHAPITRE V**

**DISPOSITONS GÉNÉRALES ET FINALES**

**ARTICLE 32**

**ARTICLE 33**

**ARTICLE 34**

**ARTICLE 35**

**ARTICLE 36**

**ARTICLE 40A**

<sup>F306</sup>**PROTOCOL ADDITIONNEL (AdARTICLE 2)**

**Textual Amendments**

**F306** Sch 1A Pt.II substituted ( coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch.

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<sup>F307</sup> Les Hautes Parties Contractantes se réservent le droit de déclarer au moment de la ratification ou de l'adhésion que l'article 2, alinéa premier, de la présente Convention ne s'appliquera pas aux transports internationaux aériens effectués directement par l'Etat, ses colonies, protectorats, territoires sous mandat ou tout autre territoire sous sa souveraineté, sa suzeraineté ou son autorité

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**Textual Amendments**

**F307** Sch. 1A Pt.II substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(26), Sch. 2(with art. 1(3))

[<sup>F308</sup>SCHEDULE 1B

**CONVENTION  
FOR THE UNIFICATION OF CERTAIN RULES  
FOR INTERNATIONAL CARRIAGE BY AIR**

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**Textual Amendments**

**F308** Sch. 1B inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(25) (with art. 1(3))

THE STATES PARTIES TO THIS CONVENTION

RECOGNIZING the significant contribution of the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed in Warsaw on 12th October 1929, hereinafter referred to as the “Warsaw Convention”, and other related instruments to the harmonization of private international air law;

RECOGNIZING the need to modernize and consolidate the Warsaw Convention and related instruments;

RECOGNIZING the importance of ensuring protection of the interests of consumers in international carriage by air and the need for equitable compensation based on the principle of restitution;

REAFFIRMING the desirability of an orderly development of international air transport operations and the smooth flow of passengers, baggage and cargo in accordance with the principles and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944;

CONVINCED that collective State action for further harmonization and codification of certain rules governing international carriage by air through a new Convention is the most adequate means of achieving an equitable balance of interests;

HAVE AGREED AS FOLLOWS:

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## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1—Scope of Application*

- 1 This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.
- 2 For the purposes of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two States Parties, or within the territory of a single State Party if there is an agreed stopping place within the territory of another State, even if that State is not a State Party. Carriage between two points within the territory of a single State Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.
- 3 Carriage to be performed by several successive carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.
- 4 This Convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.

#### *Article 2—Carriage Performed by State and Carriage of Postal Items*

- 1 This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.
- 2 In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.
- 3 Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

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### CHAPTER III

#### LIABILITY OF THE CARRIER AND EXTENT OF COMPENSATION FOR DAMAGE

##### *Article 17—Death and Injury of Passengers—Damage to Baggage*

- 1 The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.
- 2 The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, checked baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.
- 3 If the carrier admits the loss of the checked baggage, or if the checked baggage has not arrived at the expiration of twenty-one days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.
- 4 Unless otherwise specified, in this Convention the term “baggage” means both checked baggage and unchecked baggage.

##### *Article 18—Damage to Cargo*

- 1 The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.
- 2 However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:
  - (a) inherent defect, quality or vice of that cargo;
  - (b) defective packing of that cargo performed by a person other than the carrier or its servants or agents;
  - (c) an act of war or an armed conflict;
  - (d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.
- 3 The carriage by air within the meaning of paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.
- 4 The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air. If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

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### *Article 19—Delay*

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

### *Article 20—Exoneration*

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger. This Article applies to all the liability provisions in this Convention, including paragraph 1 of Article 21.

### *Article 21—Compensation in Case of Death or Injury of Passengers*

- 1 For damages arising under paragraph 1 of Article 17 not exceeding 100,000 Special Drawing Rights for each passenger, the carrier shall not be able to exclude or limit its liability.
- 2 The carrier shall not be liable for damages arising under paragraph 1 of Article 17 to the extent that they exceed for each passenger 100,000 Special Drawing Rights if the carrier proves that:
  - (a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or
  - (b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

### *Article 22—Limits of Liability in Relation to Delay, Baggage and Cargo*

- 1 In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 4,150 Special Drawing Rights.
- 2 In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1,000 Special Drawing Rights for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.
- 3 In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

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- 4 In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the destruction, loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.
- 5 The foregoing provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.
- 6 The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

#### *Article 23—Conversion of Monetary Units*

- 1 The sums mentioned in terms of Special Drawing Right in this Convention shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgement. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgement, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that State.
- 2 Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 of this Article may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier prescribed in Article 21 is fixed at a sum of 1,500,000 monetary units per passenger in judicial proceedings in their territories; 62,500 monetary units per passenger with respect to paragraph 1 of Article 22; 15,000 monetary units per passenger with respect to paragraph 2 of Article 22; and 250 monetary units per kilogramme with respect to paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

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- 3 The calculation mentioned in the last sentence of paragraph 1 of this Article and the conversion method mentioned in paragraph 2 of this Article shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in Articles 21 and 22 as would result from the application of the first three sentences of paragraph 1 of this Article. States Parties shall communicate to the depositary the manner of calculation pursuant to paragraph 1 of this Article, or the result of the conversion in paragraph 2 of this Article as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

#### *Article 24—Review of Limits*

- 1 Without prejudice to the provisions of Article 25 of this Convention and subject to paragraph 2 below, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Depositary at five-year intervals, the first such review to take place at the end of the fifth year following the date of entry into force of this Convention, or if the Convention does not enter into force within five years of the date it is first open for signature, within the first year of its entry into force, by reference to an inflation factor which corresponds to the accumulated rate of inflation since the previous revision or in the first instance since the date of entry into force of the Convention. The measure of the rate of inflation to be used in determining the inflation factor shall be the weighted average of the annual rates of increase or decrease in the Consumer Price Indices of the States whose currencies comprise the Special Drawing Right mentioned in paragraph 1 of Article 23.
- 2 If the review referred to in the preceding paragraph concludes that the inflation factor has exceeded 10 per cent, the Depositary shall notify States Parties of a revision of the limits of liability. Any such revision shall become effective six months after its notification to the States Parties. If within three months after its notification to the States Parties a majority of the States Parties register their disapproval, the revision shall not become effective and the Depositary shall refer the matter to a meeting of the States Parties. The Depositary shall immediately notify all States Parties of the coming into force of any revision.
- 3 Notwithstanding paragraph 1 of this Article, the procedure referred to in paragraph 2 of this Article shall be applied at any time provided that one-third of the States Parties express a desire to that effect and upon condition that the inflation factor referred to in paragraph 1 has exceeded 30 per cent since the previous revision or since the date of entry into force of this Convention if there has been no previous revision. Subsequent reviews using the procedure described in paragraph 1 of this Article will take place at five-year intervals starting at the end of the fifth year following the date of the reviews under the present paragraph.

#### *Article 25—Stipulation on Limits*

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

#### *Article 26—Invalidity of Contractual Provisions*

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.



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### Article 27—Freedom to Contract

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

### Article 28—Advance Payments

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, if required by its national law, make advance payments without delay to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons. Such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.

### Article 29—Basis of Claims

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

### Article 30—Servants, Agents—Aggregation of Claims

- 1 If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.
- 2 The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.
- 3 Save in respect of the carriage of cargo, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

### Article 31—Timely Notice of Complaints

- 1 Receipt by the person entitled to delivery of checked baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in paragraph 2 of Article 3 and paragraph 2 of Article 4.
- 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 seven days from the date of receipt in the case of checked baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his or her disposal.
- 3 Every complaint must be made in writing and given or dispatched within the times aforesaid.
- 4 If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on its part.

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### *Article 32—Death of Person Liable*

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.

### *Article 33—Jurisdiction*

- 1 An action for damages must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the contract has been made or before the court at the place of destination.
- 2 In respect of damage resulting from the death or injury of a passenger, an action may be brought before one of the courts mentioned in paragraph 1 of this Article, or in the territory of a State Party in which at the time of the accident the passenger has his or her principal and permanent residence and to or from which the carrier operates services for the carriage of passengers by air, either on its own aircraft, or on another carrier's aircraft pursuant to a commercial agreement, and in which that carrier conducts its business of carriage of passengers by air from premises leased or owned by the carrier itself or by another carrier with which it has a commercial agreement.
- 3 For the purposes of paragraph 2,
  - (a) "commercial agreement" means an agreement, other than an agency agreement, made between carriers and relating to the provision of their joint services for carriage of passengers by air;
  - (b) "principal and permanent residence" means the one fixed and permanent abode of the passenger at the time of the accident. The nationality of the passenger shall not be the determining factor in this regard.
- 4 Questions of procedure shall be governed by the law of the court seised of the case.

### *Article 34—Arbitration*

- 1 Subject to the provisions of this Article, the parties to the contract of carriage for cargo may stipulate that any dispute relating to the liability of the carrier under this Convention shall be settled by arbitration. Such agreement shall be in writing.
- 2 The arbitration proceedings shall, at the option of the claimant, take place within one of the jurisdictions referred to in Article 33.
- 3 The arbitrator or arbitration tribunal shall apply the provisions of this Convention.
- 4 The provisions of paragraphs 2 and 3 of this Article shall be deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith shall be null and void.

### *Article 35—Limitation of Actions*

- 1 The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
- 2 The method of calculating that period shall be determined by the law of the court seised of the case.

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### *Article 36—Successive Carriage*

- 1 In the case of carriage to be performed by various successive carriers and falling within the definition set out in paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.
- 2 In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.
- 3 As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

### *Article 37—Right of Recourse against Third Parties*

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

## CHAPTER IV

### COMBINED CARRIAGE

### *Article 38—Combined Carriage*

- 1 In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention shall, subject to paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.
- 2 Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

## CHAPTER V

### CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE CONTRACTING CARRIER

### *Article 39—Contracting Carrier—Actual Carrier*

The provisions of this Chapter apply when a person (hereinafter referred to as “the contracting carrier”) as a principal makes a contract governed by this Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another person (hereinafter referred to as “the actual carrier”) performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary.

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#### *Article 40—Respective Liability of Contracting and Actual Carriers*

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39, is governed by this Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Chapter, be subject to the rules of this Convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

#### *Article 41—Mutual Liability*

- 1 The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.
- 2 The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any waiver of rights or defences conferred by this Convention or any special declaration of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

#### *Article 42—Addressee of Complaints and Instructions*

Any complaint to be made or instruction to be given under this Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

#### *Article 43—Servants and Agents*

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.

#### *Article 44—Aggregation of Damages*

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

#### *Article 45—Addressee of Claims*

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.

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#### *Article 46—Additional Jurisdiction*

Any action for damages contemplated in Article 45 must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before a court in which an action may be brought against the contracting carrier, as provided in Article 33, or before the court having jurisdiction at the place where the actual carrier has its domicile or its principal place of business.

#### *Article 47—Invalidity of Contractual Provisions*

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

#### *Article 48—Mutual Relations of Contracting and Actual Carriers*

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse or indemnification.

## CHAPTER VI

### OTHER PROVISIONS

#### *Article 49—Mandatory Application*

Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

#### *Article 50—Insurance*

States Parties shall require their carriers to maintain adequate insurance covering their liability under this Convention. A carrier may be required by the State Party into which it operates to furnish evidence that it maintains adequate insurance covering its liability under this Convention.

#### *Article 51—Carriage Performed in Extraordinary Circumstances*

The provisions of Articles 3 to 5, 7 and 8 relating to the documentation of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of a carrier's business.

#### *Article 52—Definition of Days*

The expression "days" when used in this Convention means calendar days, not working days.

## CHAPTER VII

### FINAL CLAUSES

#### *Article 53—Signature, Ratification and Entry into Force*

- 2 . . . For the purpose of this Convention, a "Regional Economic Integration Organisation" means any organisation which is constituted by sovereign States of a given region which has competence in respect of certain matters governed by this Convention and has been duly authorized to sign and to ratify, accept, approve or accede to this Convention. A reference to a "State Party" or "States Parties" in this Convention, otherwise than in paragraph 2 of Article 1, paragraph 1(b) of Article

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3, paragraph (b) of Article 5, Articles 23, 33, 46 and paragraph (b) of Article 57, applies equally to a Regional Economic Integration Organisation. For the purpose of Article 24, the references to “a majority of the States Parties” and “one-third of the States Parties” shall not apply to a Regional Economic Integration Organisation.

*Article 55—Relationship with other Warsaw Convention Instruments*

This Convention shall prevail over any rules which apply to international carriage by air:

- 1 between States Parties to this Convention by virtue of those States commonly being Party to:
  - (a) the *Convention for the Unification of Certain Rules Relating to International Carriage by Air* Signed at Warsaw on 12 October 1929 (hereinafter called the Warsaw Convention);
  - (b) the *Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air* Signed at Warsaw on 12 October 1929, Done at The Hague on 28 September 1955 (hereinafter called The Hague Protocol);
  - (c) the *Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier*, signed at Guadalajara on 18 September 1961 (hereinafter called the Guadalajara Convention);
  - (d) the *Protocol 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 Signed at Guatemala City on 8 March 1971 (hereinafter called the Guatemala City Protocol);
  - (e) Additional Protocol Nos. 1 to 3 and Montreal Protocol No. 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol Signed at Montreal on 25 September 1975 (hereinafter called the Montreal Protocols); or
- 2 within the territory of any single State Party to this Convention by virtue of that State being Party to one or more of the instruments referred to in sub-paragraphs (a) to (e) above.

*Article 57—Reservations*

No reservation may be made to this Convention except that a State Party may at any time declare by a notification addressed to the Depository that this Convention shall not apply to:

- (a) international carriage by air performed and operated directly by that State Party for non-commercial purposes in respect to its functions and duties as a sovereign State; and/or
- (b) the carriage of persons, cargo and baggage for its military authorities on aircraft registered in or leased by that State Party, the whole capacity of which has been reserved by or on behalf of such authorities.

*[Paragraphs 53 (save for part of paragraph 2), 54 and 56 and the concluding words of the Convention are not reproduced. They deal with signature, ratification, coming into force, denunciation and territorial extent where a State has more than one system of law]*

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PROSPECTIVE

## CHAPTER II

### DOCUMENTATION AND DUTIES OF THE PARTIES RELATING TO THE CARRIAGE OF PASSENGERS, BAGGAGE AND CARGO

#### *Article 3—Passengers and Baggage*

- 1 In respect of carriage of passengers, an individual or collective document of carriage shall be delivered containing:
  - (a) an indication of the places of departure and destination;
  - (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.
- 2 Any other means which preserves the information indicated in paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.
- 3 The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.
- 4 The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.
- 5 Non-compliance with the provisions of the foregoing paragraphs 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.

#### *Article 4—Cargo*

- 1 In respect of the carriage of cargo, an air waybill shall be delivered.
- 2 Any other means which preserves a record of the carriage to be performed may 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 cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.

#### *Article 5—Contents of Air Waybill or Cargo Receipt*

The air waybill or the cargo receipt shall include:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
- (c) an indication of the weight of the consignment.

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#### *Article 6—Document Relating to the Nature of the Cargo*

The consignor may be required, if necessary to meet the formalities of customs, police and similar public authorities, to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting therefrom.

#### *Article 7—Description of Air Waybill*

- 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 shall 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 who shall hand it 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, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

#### *Article 8—Documentation for Multiple Packages*

When there is more than one 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 cargo receipts when the other means referred to in paragraph 2 of Article 4 are used.

#### *Article 9—Non-compliance with Documentary Requirements*

Non-compliance with the provisions of Articles 4 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.

#### *Article 10—Responsibility for Particulars of Documentation*

- 1 The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.
- 2 The consignor shall indemnify the carrier against all damage suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.
- 3 Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by it, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on its behalf in the cargo receipt or in the record preserved by the other means referred to in paragraph 2 of Article 4.



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#### Article 11—Evidentiary Value of Documentation

- 1 The air waybill or the cargo receipt is *prima facie* evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.
- 2 Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

#### Article 12—Right of Disposition of Cargo

- 1 Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.
- 2 If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.
- 3 If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable, without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the cargo receipt.
- 4 The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or cannot be communicated with, the consignor resumes its right of disposition.

#### Article 13—Delivery of the Cargo

- 1 Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due and on complying with the conditions of carriage.
- 2 Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
- 3 If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

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#### *Article 14—Enforcement of the Rights of Consignor and Consignee*

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interest of another, provided that it carries out the obligations imposed by the contract of carriage.

#### *Articles 15—Relations of Consignor and Consignee or Mutual Relations of Third Parties*

- 1 Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
- 2 The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the cargo receipt.

#### *Article 16—Formalities of Customs, Police or Other Public Authorities*

- 1 The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authorities before the cargo can be delivered to the consignee. The consignor is 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, its servants or agents.
- 2 The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

PROSPECTIVE

### CHAPTER III

PROSPECTIVE

### CHAPTER IV

PROSPECTIVE

### CHAPTER V

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PROSPECTIVE

## CHAPTER VI

PROSPECTIVE

## CHAPTER VII]

*[<sup>F308</sup>Paragraphs 53 (save for part of paragraph 2), 54 and 56 and the concluding words of the Convention are not reproduced. They deal with signature, ratification, coming into force, denunciation and territorial extent where a State has more than one system of law]]*

## <sup>F309</sup>SECOND SCHEDULE

### Textual Amendments

**F309** Sch. 2 repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

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**F309**

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