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

The Parties to this Protocol,

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

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

Have agreed as follows:

Article 1
Definitions

For the purposes of this Protocol,

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

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

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

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

Article 2
Scope and effect of the electronic consignment note

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

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

Article 3
Authentication of the electronic consignment note

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

(a) is uniquely linked to the signatory;

(b) is capable of identifying the signatory;

(c) is created using means that the signatory can maintain under his sole control; and

(d) is linked to the data to which it relates in such a manner that any subsequent change of the data is detectable.

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

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

Article 4
Conditions for the establishment of the electronic consignment note

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

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

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

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

Article 5
Implementation of the electronic consignment note

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

(a) The method for the issuance and the delivery of the electronic consignment note to the entitled party;

(b) An assurance that the electronic consignment note retains its integrity;

(c) The manner in which the party entitled to the rights arising out of the electronic consignment note is able to demonstrate that entitlement;

(d) The way in which confirmation is given that delivery to the consignee has been effected;

(e) The procedures for supplementing or amending the electronic consignment note; and

(f) The procedures for the possible replacement of the electronic consignment note by a consignment note issued by different means.

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

Article 6
Documents supplementing the electronic consignment note

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

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

FINAL PROVISIONS

Article 7
Signature, ratification, accession

1. This Protocol shall be open for signature by States which are signatories to or Parties to the Convention and are either members of the Economic Commission for Europe or have been admitted to the Commission in a consultative capacity under paragraph 8 of the Commission's terms of reference.

2. This Protocol shall be open for signature at Geneva from 27 to 30 May 2008 inclusive and after this date, at United Nations Headquarters in New York until 30 June 2009 inclusive.

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

4. Such States as may participate in certain activities of the Economic Commission for Europe in accordance with paragraph 11 of the Commission's

terms of reference and which have acceded to the Convention may become Parties to this Protocol by acceding thereto after its entry into force.

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

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

Article 8
Entry into force

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

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

Article 9
Denunciation

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

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

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

Article 10
Termination

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

effect. It shall also cease to be in force from the date on which the Convention ceases to be in force.

Article 11
Dispute

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

Article 12
Reservations

1. Any State may, at the time of signing, ratifying, or acceding to this Protocol, declare by a notification addressed to the Secretary-General of the United Nations that it does not consider itself bound by article 11 of this Protocol. Other Parties shall not be bound by article 11 of this Protocol in respect of any Party which has entered such a reservation.

2. The declaration referred to in paragraph 1 of this article may be withdrawn at any time by a notification addressed to the Secretary-General of the United Nations.

3. No other reservation to this Protocol shall be permitted.

Article 13
Amendments

1. Once this Protocol is in force, it may be amended according to the procedure defined in this article.

2. Any proposed amendment to this Protocol presented by a Party to this Protocol shall be submitted to the Working Party on Road Transport of the United Nations Economic Commission for Europe (UNECE) for consideration and decision.

3. The Parties to this Protocol shall make all possible efforts to achieve consensus. If, despite these efforts, consensus is not reached on the proposed amendment, it shall require, as a last resort, for adoption a two-thirds majority of Parties present and voting. A proposed amendment adopted either by

consensus or by a two-thirds majority of Parties shall be submitted by the secretariat of the United Nations Economic Commission for Europe to the Secretary-General to be circulated for acceptance to all Parties to this Protocol, as well as to signatory States.

4. Within a period of nine months from the date on which the proposed amendment is communicated by the Secretary-General, any Party may inform the Secretary-General that it has an objection to the amendment proposed.

5. The proposed amendment shall be deemed to have been accepted if, by the end of the period of nine months foreseen in the preceding paragraph, no objection has been notified by a Party to this Protocol. If an objection is stated, the proposed amendment shall be of no effect.

6. In the case of a country which becomes a Contracting Party to this Protocol between the moment of notification of a proposal for amendment and the end of the nine-month period foreseen in paragraph 4 of this article, the secretariat of the Working Party on Road Transport of the Economic Commission for Europe shall notify the new State Party about the proposed amendment as soon as possible. The latter may inform the Secretary-General before the end of this period of nine months that it has an objection to the proposed amendment.

7. The Secretary-General shall notify, as soon as possible, all the Parties of objections raised in accordance with paragraphs 4 and 6 of this Article as well as of any amendment accepted according to paragraph 5 above.

8. Any amendment deemed to have been accepted shall enter into force six months after the date of notification of such acceptance by the Secretary-General to Parties.

Article 14
Convening of a diplomatic conference

1. Once this Protocol is in force, any Party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing this Protocol. The Secretary-General shall notify all Parties of the request and a review conference shall be convened by the Secretary-General if, within a period of four months following the date of notification by the Secretary-General, not less than one fourth of the Parties to this Protocol notify him of their concurrence with the request.

2. If a conference is convened in accordance with the preceding paragraph, the Secretary-General shall notify all the Parties and invite them to submit within a period of three months such proposals as they may wish the Conference to consider. The Secretary-General shall circulate to all Parties the provisional agenda for the Conference together with the texts of such proposals at least three months before the date on which the Conference is to meet.

3. The Secretary-General shall invite to any conference convened in accordance with this article all States referred to in Article 7, paragraphs 1, 3 and 4, of this Protocol.

Article 15
Notifications to States

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

(a) Ratifications and accessions under Article 7;

(b) The dates of entry into force of this Protocol in accordance with Article 8;

(c) Denunciations under Article 9;

(d) The termination of this Protocol in accordance with Article 10;

(e) Declarations and notifications received in accordance with Article 12, paragraphs 1 and 2.

Article 16
Depositary

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

DONE at Geneva, this twentieth day of February two thousand and eight, in a single copy in the English and French languages, each text being equally authentic.