AN ACT TO AMEND CHAPTER 22 OF THE MARITIME CODE.

A MARITIME LEGISLATION DRAFTING PROJECT SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER OF LAWS (LL.M.) AT THE IMO INTERNATIONAL MARITIME LAW INSTITUTE

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DRAFTING INSTRUCTIONS.

At the joint meeting of Councils of Shipowners and Cargo Owners it was observed that the current wording of the Maritime Code of Latvia does not provide an adequate legal regime for carriage of goods by sea. Especially it was mentioned that Latvia as a transit state should accord special attention to safety of carriage and to find ways to ensure that owners of transit cargoes do not suffer losses due to a relaxed liability regime of shipowners. At the same time it was understood that carriers are also concerned with good reputation of transport operations in and from Latvia.

There were different legal regimes considered during the meeting. Firstly representatives of Council of Shipowners proposed that Latvia should ratify the International Convention for Unification of Certain Rules of Law Relating to Bills of Lading, 1924 (Hague Rules) and the Protocol to Amend the International Convention for Unification of Certain Rules of Law Relating to Bills of Lading, 1968 (Visby Rules) and Protocol Amending the International Convention for Unification of Certain Rules of Law Relating to Bills of Lading, 1979 (S.D.R. Protocol). By doing so Latvia would implement the most commonly used legal regime of carriage of cargoes by sea. Besides Latvian shipowners would be protected from unexpected expenses of cargo claims by virtue of available regime of liability exceptions provided for in the Hague-Visby Rules. Cargo owners could protect themselves by covering risks by means of insurance. Observers from Insurers Council supported this view and added that the Latvian insurance market possesses the required capacity and insurers are ready to cover adequately any new cargoes generated by the new regime.

This view was not supported by speakers representing the Council of Cargo Owners. Their concern was that the Hague-Visby Rules although widely accepted by a majority of states,

does not address adequately contemporary requirements of trade. Certain problems are caused by the "tackle to tackle" rule, the long list of excepted perils and low limitation amounts. Additionally the Hague-Visby Rules do not facilitate use of electronic means of communication due to the requirement of a written bill of lading. The problem of liability in cases when part of the carriage is performed by a carrier other than the contracting carrier is not solved clearly enough within the Hague-Visby regime.

Representatives of the Cargo Owners Council proposed to introduce a completely different regime providing for unlimited liability for cargo damage or loss, also eliminating the excepted perils list. Shipowners should be made liable for cargo loss or damage from the moment of taking goods into charge till delivery. This would attract new flows of transit cargo, reduce costs of cargo insurance and would demand that shipowners exercise the required level of caution and diligence when providing carriage services.

While concurring with the criticisms of the Hague-Visby Rules, representatives of the Shipowners Council could not agree with the proposals of the cargo owners. Such regime would completely disrupt the existing historical global division of risks between cargo interests and ship. Concern was also expressed that in such a situation freight rates offered by cargo interests would not justify the risks and vast capital invested into maritime adventures by shipowners. Observers from the International Group of P&I Clubs expressed concern that in situations when proposals of cargo owners would be recommended to legislators of Latvia it would undermine liability coverage available to shipowners involved in trade in and from Latvia. As a result, prudent shipowners would be forced out of the market and this would probably cause an inflow of substandard tonnage and shipowners.

Representatives of the Council of Shipowners proposed to develop a liability regime that would be based on the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules). Adoption of the Hamburg Rules would solve certain deficiencies of the Hague-Visby Rules and still a liability regime would be maintained in uniformity with international trends in this respect. While this proposal was accepted with preliminary approval there were concerns

expressed that wording of the Hamburg Rules does not always provide for the most adequate solution of transportation problems. Some speakers qualified this Convention as a compromise reached not based on certain facts, but by taking into account relative bargaining powers of participants at the conference. It was proposed to modify certain provisions of the Hamburg Rules in order to reflect the best practice of dealing with liability problems.

A group of experts was created to prepare proposals to be reflected in legislation. Proposed modifications to the Hamburg Rules were the following:

1. The definition of bill of lading (article 1.7.) does not provide for possibility to use a non negotiable bill of lading, where goods could be delivered to named consignees without surrender of the original bill of lading. The use of the non negotiable bill of lading should be encouraged taking into account a reduced possibility of fraud and misdelivery. It is proposed that the definition of the bill of lading could be adopted similar to the definition of "Multimodal transport document" in the United Nations Convention on International Multimodal Transport of Goods (Multimodal Convention, 1980).

2. Article 14 of the Hamburg Rules does not regulate the use of the non negotiable bill of lading. It is recommended that this article be modified by reflecting the provisions to be found in articles 5-7 of the Multimodal Convention, 1980.

3. A very useful provision is to be found in article 5.4. of the Multimodal Convention, 1980 enabling the use of electronic data processing equipment when dealing with cargo documents. The possibility to use electronic bills of lading would be very material taking into account the great speed of modern ships and reduced carriage distances.

4. It is recommended that provisions of paragraphs 3 and 4 of article 17 of the Hamburg Rules should be reconsidered, because a literary reading of this article would lead to the idea that the practice of issuance of letters of guarantee (indemnity) is recognized and justified. This practice

should not be admitted and therefore it seems that the wording of article 11 of the Multimodal Convention, 1980 would be more acceptable.

5. When dealing with the liability of the carrier it is observed that the Rules provide that parties to the contract be held liable for their negligence, and it is expected that abolition of the archaic principle of "error of navigation" would bring the maritime carriage regime in line with other modes of transport. Also the requirement to exercise due diligence to provide a seaworthy ship at all times instead of "before and at the beginning of the voyage" would seem to correspond to the practice of modern navigation.

6. It is recommended that paragraph 4 of article 5 should be excluded because it would be reasonable to apply provisions of paragraph 1 of article 5 also to fire damage. It would be an unreasonable burden placed upon the claimant to prove fault or neglect because normally all evidence is situated in the hands of the shipowner.

7. Regarding limits of liability it is observed that although limits in the Hamburg Rules are higher than those in the Hague-Visby Rules, nevertheless maritime carriage limits are still the lowest if compared to other modes of transport. It is submitted that the average value of maritime cargo is lower (due to amounts of bulk cargo) but it is recommended that a separate study of the value of cargo should be conducted in order to establish adequate levels of limitation.

8. It is recommended that article 6 of the Hamburg Rules should be supplemented with provisions of article IV 5. (b) of the Hague-Visby Rules in order to provide courts with some directions of calculation of cargo value and to exclude possible punitive damages.

9. It is observed that article 8 of the Hamburg Rules provide almost "unbreakable" liability limits. This would seem to be unreasonable at the first sight, but it should be appreciated that such provisions provide the carrier with possibility to estimate risks and arrange for adequate liability insurance coverage.

10. It is recommended that the agreement mentioned in article 9.1. should be required to be in express form thereby discouraging the use of general liberty clauses in relation to deck cargo.

11. It is recommended that article 11 should be excluded due to the fact that the application of those provisions would enable carrier to "contract out" of the responsibility for acts of the actual carrier. Such an approach seems to be in contradiction with article 10 and the general spirit of the Hamburg Rules.

12. In article 19.1. and 19.4. it is recommended to replace the word "consignee" with "person entitled to delivery" in order to avoid possible arguments that notice of loss was given by the person not entitled to do so.

13. In order to clarify the wording it is recommended to replace article 19.4. of the Hamburg Rules with corresponding provisions of article III 6. of the Hague-Visby Rules.

14. It is recommended that limitation of actions should be maintained within one year. A one year limit should be adequate time to conduct preliminary settlement procedures and besides the Hamburg Rules in article 19.4. provides for possibility to extend the limitation period.

15. It is recommended that article 23.4. of the Hamburg rules should be excluded as excessive. Mistake of law on part of the claimant should not to be covered by the defendant even in the situation described in article 23. Compensation for costs incurred by the claimant are recoverable anyway, and unnecessary repetition of such a provision could lead to the conclusion that such particular rule as found in this article should exclude the general rule of *restitutio in integrum*.

16. It is noted that the adoption of provisions of article 24.2. would have a serious effect on the practice of adjustment of General Average, but still such a provision is completely in line with the general spirit of the Hamburg Rules.

By implementation of the regime in accordance with drafting recommendations stated above Latvia would establish a very modern regime regarding the carriage of goods and prepare the background for implementation of the Multimodal Convention. It is really difficult to justify many provisions to be found in the Hague-Visby Rules in the context of modern transport law and practices of carriage of goods. Statutory implementation of a new regime should not undermine the available liability coverage provided by P&I Clubs. Rates are expected to be raised only in respect to carriers having bad record of cargo safety, and consequently should lead to increased diligence when rendering carriage services.

Implementation of the proposed regime would also correspond to relevant provisions of the Civil Code of Latvia dealing with carriage contracts.

Proposals stated above were considered at meeting of Cabinet of Ministers and it was resolved to change Chapter 22 of the Maritime Code in order to reflect the submitted proposals. Therefore it is recommended that the draft law be prepared taking into account recommendations stated above and such draft to be presented to Saeima as soon as possible in order to ensure expeditious adoption of such law having in mind the great significance of transit operations in the economy of Latvia.

AN ACT TO AMEND CHAPTER 22 OF THE MARITIME CODE.

ARRANGEMENT OF ARTICLES

Saeima has adopted and the President of Latvia promulgates the following law:

AN ACT TO AMEND CHAPTER 22 OF THE MARITIME CODE.

To amend the Maritime Code in the following way:

To read Chapter 22 in the following way:

I General Provisions

Article 545. Definitions

1. 'Carrier' means any person by whom or in whose name a contract of carriage of goods by sea has been concluded with a shipper.

2. 'Actual carrier' means any person to whom the performance of the carriage of the goods, or of part of the carriage, has been entrusted by the carrier, and includes any other person to whom such performance has been entrusted.

3. 'Shipper' means any person by whom or in whose name or on whose behalf a contract of carriage of goods by sea has been concluded with a carrier, or any person by whom or in whose name or on whose behalf the goods are actually delivered to the carrier in relation to the contract of carriage by sea.

4. 'Consignee' means the person entitled to take delivery of the goods.

5. 'Goods' includes live animals; where the goods are consolidated in a container, pallet or similar article of transport or where they are packed, 'goods' includes such article of transport or packaging if supplied by the shipper.

6. 'Contract of carriage by sea' means any contract whereby the carrier undertakes against payment of freight to carry goods by sea from one port to another; however, a contract which

involves carriage by sea and also carriage by some other means is deemed to be a contract of carriage by sea for the purposes of this Chapter only in so far as it relates to the carriage by sea.

7. 'Bill of lading' means a document which evidences a contract of carriage by sea and the taking in charge of the goods by the carrier, and an undertaking by him to deliver the goods in accordance with the terms of that contract.

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

Article 546. Scope of application

1. The provisions of this Chapter are applicable to all contracts of carriage by sea, if:

(a) the port of loading as provided for in the contract of carriage by sea is located in Latvia, or

(b) the port of discharge as provided for in the contract of carriage by sea is located in Latvia, or

(c) one of the optional ports of discharge provided for in the contract of carriage by sea is the actual port of discharge and such port is located in Latvia, or

(d) the bill of lading evidencing the contract of carriage by sea is issued in Latvia, or

(e) the bill of lading evidencing the contract of carriage by sea provides that the provisions of this Code are to govern the contract.

2. The provisions of the Code are applicable without regard to the nationality of the ship, the carrier, the actual carrier, the shipper, the consignee or any other interested person.

3. The provisions of this Chapter are not applicable to charter-parties. However, where a bill of lading is issued pursuant to a charter-party, the provisions of the Chapter apply to such a bill of lading if it governs the relation between the carrier and the holder of the bill of lading, not being the charterer.

4. If a contract provides for future carriage of goods in a series of shipments during an agreed period, the provisions of this Chapter apply to each shipment. However, where a shipment is made under a charterparty, the provisions of paragraph 3 of this article apply.

II Transport Documents

Article 547. Issue of bill of lading

1. When the carrier or the actual carrier takes the goods in his charge, the carrier shall issue to the shipper a bill of lading which, at the option of the shipper, shall be in either negotiable or non negotiable form.

2. The bill of lading shall be signed by the carrier or by a person having authority from him.

3. The signature on the bill of lading may be in handwriting, printed in facsimile, perforated, stamped, in symbols, or made by any other mechanical or electronic means.

4. If the shipper so agrees, a non-negotiable bill of lading may be issued by making use of any mechanical or other means preserving a record of the particulars stated in article 550 to be contained in the bill of lading. In such a case the carrier, after having taken goods in charge, shall deliver to the shipper a readable document containing all the particulars recorded, and such document shall for the purposes of the provisions of this Chapter be deemed to be a bill of lading.

Article 548. Negotiable bill of lading

1. When a bill of lading is issued in negotiable form:

(a) It shall be made out to order or to bearer;

(b) If made out to order it shall be transferable by endorsement;

(c) If made out to bearer it shall be transferable without endorsement;

(d) If issued in a set of more than one original it shall indicate the number of originals in the set;

(e) If any copies are issued each copy shall be marked "non-negotiable copy".

2. Delivery of the goods may be demanded from the carrier or a person acting on his behalf only against surrender of the negotiable bill of lading duly endorsed where necessary.

3. The carrier shall be discharged from his obligation to deliver goods if, where a negotiable bill of lading has been issued in a set of more than one original, he or the person acting on his behalf has in good faith delivered the goods against surrender of one of such originals.

Article 549. Non negotiable bill of lading.

1. Where a bill of lading is issued in a non-negotiable form it shall indicate a named consignee.

2. The carrier shall be discharged from his obligation to deliver the goods if he makes delivery thereof to the consignee named in such non- negotiable bill of lading or to such other person as he may be duly instructed, as a rule, in writing.

Article 550. Contents of bill of lading

1. The bill of lading must include, inter alia, the following particulars:

(a) the general nature of the goods, the leading marks necessary for identification of the goods, an express statement, if applicable, as to the dangerous character of the goods, the number of packages or pieces, and the weight of the goods or their quantity otherwise expressed, all such particulars as furnished by the shipper;

(b) the apparent condition of the goods;

(c) the name and principal place of business of the carrier;

(d) the name of the shipper;

(e) the consignee if named by the shipper;

(f) the port of loading under the contract of carriage by sea and the date on which the goods were taken over by the carrier at the port of loading;

(g) the port of discharge under the contract of carriage by sea;

(h) the number of originals of the bill of lading, if more than one;

(i) the place of issuance of the bill of lading;

(j) the signature of the carrier or a person acting on his behalf;

(k) the freight to the extent payable by the consignee or other indication that freight is payable by him;

(l) the statement referred to in paragraph 3 of article 567;

(m) the statement, if applicable, that the goods shall or may be carried on deck;

(n) the date or the period of delivery of the goods at the port of discharge if expressly agreed upon between the parties; and

(o) any increased limit or limits of liability where agreed in accordance with paragraph 5 of article 557.

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

3. The absence in the bill of lading of one or more particulars referred to in this article does not affect the legal character of the document as a bill of lading provided that it nevertheless meets the requirements set out in paragraph 7 of article 545.

Article 551. Bills of lading: reservations and evidentiary effect

1. If the bill of lading contains particulars concerning the general nature, leading marks, number of packages or pieces, weight or quantity of the goods which the carrier or other person issuing the bill of lading on his behalf knows or has reasonable grounds to suspect do not accurately represent the goods actually taken over or, where a 'shipped' bill of lading is issued, loaded, or if he had no reasonable means of checking such particulars, the carrier or such other person must insert in the bill of lading a reservation specifying these inaccuracies, grounds of suspicion or the absence of reasonable means of checking.

2. If the carrier or other person issuing the bill of lading on his behalf fails to note on the bill of lading the apparent condition of the goods, he is deemed to have noted on the bill of lading that the goods were in apparent good condition.

3. Except for particulars in respect of which and to the extent to which a reservation permitted under paragraph 1 of this article has been entered:

(a) the bill of lading is prima facie evidence of the taking over or, where a 'shipped' bill of lading is issued, loading, by the carrier of the goods as described in the bill of lading; and

(b) proof to the contrary by the carrier is not admissible if the bill of lading has been transferred to a third party, including a consignee, who in good faith has acted in reliance on the description of the goods therein.

4. A bill of lading which does not, as provided in paragraph 1, subparagraph (k) of article 550, set forth the freight or otherwise indicate that freight is payable by the consignee or does not set forth demurrage incurred at the port of loading payable by the consignee, is prima facie evidence that no freight or such demurrage is payable by him. However, proof to the contrary by the carrier is not admissible when the bill of lading has been transferred to a third party, including a consignee, who in good faith has acted in reliance on the absence in the bill of lading of any such indication.

Article 552. Guarantees by the shipper

1. The shipper is deemed to have guaranteed to the carrier the accuracy of particulars relating to the general nature of the goods, their marks, number, weight and quantity as furnished by him for insertion in the bill of lading.

2. The shipper must indemnify the carrier against the loss resulting from inaccuracies of particulars referred to in paragraph 1 of this article. The shipper remains liable even if the bill of lading has been transferred by him. The right of the carrier to such indemnity in no way limits his liability under the contract of carriage by sea to any person other than the shipper.

Article 553. Liability for intentional misstatements or omissions.

When the shipper, with intent to defraud, gives in the bill of lading false information concerning the goods or omits any information required to be included under paragraph 1 (a) or (b) of article 550 or under article 551, he shall be liable without the benefit of the limitation of liability provided for in this Chapter, for any loss, damage or expenses incurred by a third party, including a consignee, who acted in reliance on the description of the goods in the bill of lading issued.

3. In paragraphs 1 and 2 of this article, reference to the carrier or to the consignee means, in addition to the carrier or the consignee, the servants or agents, respectively, of the carrier or the consignee.

Article 556. Basis of liability

1. The carrier is liable for loss resulting from loss of or damage to the goods, as well as from delay in delivery, if the occurrence which caused the loss, damage or delay took place while the goods were in his charge as defined in article 555, unless the carrier proves that he, and his servants or agents took all measures that could reasonably be required to avoid the occurrence and its consequences.

2. Delay in delivery occurs when the goods have not been delivered at the port of discharge provided for in the contract of carriage by sea within the time expressly agreed upon or, in the absence of such agreement, within the time which it would be reasonable to require of a diligent carrier, having regard to the circumstances of the case.

3. The person entitled to make a claim for the loss of goods may treat the goods as lost if they have not been delivered as required by article 555 within 60 consecutive days of following the expiry of the time for delivery according to paragraph 2 of this article.

4. With respect to live animals, the carrier is not liable for loss, damage or delay in delivery resulting from any special risks inherent in that kind of carriage. if the carrier proves that he has complied with any special instructions given to him by the shipper respecting the animals and that, in the circumstances of the case, the loss, damage or delay in delivery could be attributed to such risks, it is presumed that the loss, damage or delay in delivery was so caused, unless there is proof that all or a part of the loss, damage or delay in delivery resulted from fault or neglect on the part of the carrier, his servants or agents.

5. The carrier is not liable, except in general average, where loss, damage or delay in delivery resulted from measures to save life or from reasonable measures to save property at sea.

6. Where fault or neglect on the part of the carrier, his servants or agents combines with another cause to produce loss, damage or delay in delivery the carrier is liable only to the extent that the loss, damage or delay in delivery is attributable to such fault or neglect, provided that the carrier proves the amount of the loss, damage or delay in delivery not attributable thereto.

Article 557. Limits of liability

1. (a) The liability of the carrier for loss resulting from loss of or damage to goods according to the provisions of article 556 is limited to an amount equivalent to 835 units of account per package or other shipping unit or 2.5 units of account per kilogramme of gross weight of the goods lost or damaged, whichever is the higher.

(b) The liability of the carrier for delay in delivery according to the provisions of article 556 is limited to an amount equivalent to two and a half times the freight payable for the goods delayed, but not exceeding the total freight payable under the contract of carriage of goods by sea.

(c) In no case shall the aggregate liability of the carrier, under both subparagraphs (a) and (b) of this paragraph, exceed the limitation which would be established under sub-paragraph (a) of this paragraph for total loss of the goods with respect to which such liability was incurred.

2. For the purpose of calculating which amount is the higher in accordance with paragraph 1(a) of this article, the following rules apply:

(a) Where a container, pallet or similar article of transport is used to consolidate goods, the package or other shipping units enumerated in the bill of lading, if issued, or otherwise in any other document evidencing the contract of carriage by sea, as packed in such article of transport are deemed packages or shipping units. Except as aforesaid the goods in such article of transport are deemed one shipping unit.

(b) In cases where the article of transport itself has been lost or damaged, that article of transport, if not owned or otherwise supplied by the carrier, is considered one separate shipping unit.

3. Unit of account is the Special Drawing Right as defined by the International Monetary Fund.

4. The amounts mentioned in this article are to be converted into the lats according to the value of the Special Drawing Right as provided by the Bank of Latvia at the date of judgment or the date agreed upon by the parties.

5. By agreement between the carrier and the shipper, limits of liability exceeding those provided for in paragraph 1 may be fixed.

6. The total amount recoverable shall be calculated by reference to the value of such goods at the place and time at which the goods are delivered in accordance with the contract or should have been so delivered.

7. The value of goods shall be fixed according to the commodity exange price, or, if there be no such price, according to the current market price, or, if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality

Article 558. Application to non-contractual claims

1. The defences and limits of liability provided for in this Chapter apply in any action against the carrier in respect of loss or damage to the goods covered by the contract of carriage by sea, as well as of delay in delivery whether the action is founded in contract, in tort or otherwise.

2. If such an action is brought against a servant or agent of the carrier, such servant or agent, if he proves that he acted within the scope of his employment, is entitled to avail himself of the defences and limits of liability which the carrier is entitled to invoke under this Chapter.

3. Except as provided in article 559, the aggregate of the amounts recoverable from the carrier and from any persons referred to in paragraph 2 of this article shall not exceed the limits of liability provided for in this Chapter.

Article 559. Loss of right to limit responsibility

1. The carrier is not entitled to the benefit of the limitation of liability provided for in article 557 if it is proved that the loss, damage or delay in delivery resulted from an act or omission of the carrier done with the intent to cause such loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result.

2. Notwithstanding the provisions of paragraph 2 of article 558, a servant or agent of the carrier is not entitled to the benefit of the limitation of liability provided for in article 557 if it is proved that the loss, damage or delay in delivery resulted from an act or omission of such servant

or agent, done with the intent to cause such loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result.

Article 560. Deck cargo

1. The carrier is entitled to carry the goods on deck only if such carriage is in accordance with an express agreement with the shipper or with the usage of the particular trade or is required by statutory rules or regulations.

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

3. Where the goods have been carried on deck contrary to the provisions of paragraph 1 of this article or where the carrier may not under paragraph 2 of this article invoke an agreement for carriage on deck, the carrier, notwithstanding the provisions of paragraph 1 of article 556, is liable for loss of or damage to the goods, as well as for delay in delivery, resulting solely from the carriage on deck, and the extent of his liability is to be determined in accordance with the provisions of article 557 or article 559 of this Chapter, as the case may be.

4. Carriage of goods on deck contrary to express agreement for carriage under deck is deemed to be an act or omission of the carrier within the meaning of article 559.

Article 561. Liability of the carrier and actual carrier

1. Where the performance of the carriage or part thereof has been entrusted to an actual carrier, whether or not in pursuance of a liberty under the contract of carriage by sea to do so, the carrier nevertheless remains responsible for the entire carriage according to the provisions of this Chapter. The carrier is responsible, in relation to the carriage performed by the actual carrier, for the acts and omissions of the actual carrier and of his servants and agents acting within the scope of their employment.

2. All the provisions of this Chapter governing the responsibility of the carrier also apply to the responsibility of the actual carrier for the carriage performed by him. The provisions of paragraphs 2 and 3 of article 558 and of paragraph 2 of article 559 apply if an action is brought against a servant or agent of the actual carrier.

3. Any special agreement under which the carrier assumes obligations not imposed by this Chapter or waives rights conferred by this Chapter affects the actual carrier only if agreed to by him expressly and in writing. Whether or not the actual carrier has so agreed, the carrier nevertheless remains bound by the obligations or waivers resulting from such special agreement.

4. Where and to the extent that both the carrier and the actual carrier are liable, their liability is joint and several.

5. The aggregate of the amounts recoverable from the carrier, the actual carrier and their servants and agents shall not exceed the limits of liability provided for in this Chapter.

6. Nothing in this article shall prejudice any right of recourse as between the carrier and the actual carrier.

IV Liability of the shipper

Article 562. General rule

The shipper is not liable for loss sustained by the carrier or the actual carrier, or for damage sustained by the ship, unless such loss or damage was caused by the fault or neglect of the shipper, his servants or agents. Nor is any servant or agent of the shipper liable for such loss or damage unless the loss or damage was caused by fault or neglect on his part.

Article 563. Special rules on dangerous goods

1. The shipper must mark or label in a suitable manner dangerous goods as dangerous.

2. Where the shipper hands over dangerous goods to the carrier or an actual carrier, as the case may be, the shipper must inform him of the dangerous character of the goods and, if necessary, of the precautions to be taken. If the shipper fails to do so:

(a) the shipper is liable to the carrier and any actual carrier for the loss resulting from the shipment of such goods, and

(b) the goods may at any time be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation.

3. The provisions of paragraph 2 of this article may not be invoked by any person if during the carriage he has taken the goods in his charge with knowledge of their dangerous character.

4. If, in cases where the provisions of paragraph 2, sub-paragraph (b), of this article do not apply or may not be invoked, dangerous goods become an actual danger to life or property, they may be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation except where there is an obligation to contribute in general average or where the carrier is liable in accordance with the provisions of article 556.

V Claims and actions

Article 564. Notice of loss, damage or delay

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

2. Where the loss or damage is not apparent, the provisions of paragraph 1 of this article apply correspondingly if notice in writing is not given within 15 consecutive days after the day when the goods were handed over to the consignee.

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

4. In the case of any actual or apprehended loss or damage the carrier and the person entitled to delivery must give all reasonable facilities to each other for inspecting and tallying the goods.

5. No compensation shall be payable for loss resulting from delay in delivery unless a notice has been given in writing to the carrier within 60 consecutive days after the day when the goods were handed over to the consignee.

6. If the goods have been delivered by an actual carrier, any notice given under this article to him shall have the same effect as if it had been given to the carrier, and any notice given to the carrier shall have effect as if given to such actual carrier.

7. Unless notice of loss or damage, specifying the general nature of the loss or damage, is given in writing by the carrier or actual carrier to the shipper not later than 90 consecutive days after the occurrence of such loss or damage or after the delivery of the goods in accordance with paragraph 2 of article 555, whichever is later, the failure to give such notice is prima facie evidence that the carrier or the actual carrier has sustained no loss or damage due to the fault or neglect of the shipper, his servants or agents.

8 For the purpose of this article, notice given to a person acting on the carrier's or the actual carrier's behalf including the master or the officer in charge of the ship, or to a person acting on the shipper's behalf is deemed to have been given to the carrier, to the actual carrier or to the shipper, respectively.

Article 565. Limitation of actions

1. Any action relating to carriage of goods under this Chapter is time-barred if judicial or arbitral proceedings have not been instituted within a period of one year.

2. The limitation period commences on the day on which the carrier has delivered the goods or part thereof or, in cases where no goods have been delivered, on the last day on which the goods should have been delivered.

3. The day on which the limitation period commences is not included in the period.

4. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration in writing to the claimant. This period may be further extended by another declaration or declarations.

5. An action for indemnity by a person held liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs. However, the time allowed shall not be less than 90 days commencing from the day when the person instituting such action for indemnity has settled the claim or has been served with process in the action against himself.

Article 566. Arbitration

1. Subject to the provisions of this article, parties may provide by agreement evidenced in writing that any dispute that may arise relating to carriage of goods under this Chapter shall be referred to arbitration.

2. Where a charter-party contains a provision that disputes arising thereunder shall be referred to arbitration and a bill of lading issued pursuant to the charter-party does not contain a special annotation providing that such provision shall be binding upon the holder of the bill of lading, the carrier may not invoke such provision as against a holder having acquired the bill of lading in good faith.

3. The arbitrator or arbitration tribunal shall apply the rules of this Chapter.

4. The provisions of paragraph 3 of this article is deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith is null and void.

5. Nothing in this article affects the validity of an agreement relating to arbitration made by the parties after the claim under the contract of carriage by sea has arisen.

VI Supplementary provisions

Article 567. Contractual stipulations

1. Any stipulation in a contract of carriage by sea, in a bill of lading, or in any other document evidencing the contract of carriage by sea is null and void to the extent that it derogates, directly or indirectly, from the provisions of this Chapter. The nullity of such a stipulation does not affect the validity of the other provisions of the contract or document of which it forms a part. A clause assigning benefit of insurance of the goods in favour of the carrier, or any similar clause, is null and void.

2. Notwithstanding the provisions of paragraph 1 of this article, a carrier may increase his responsibilities and obligations under this Chapter.

3. Where a bill of lading or any other document evidencing the contract of carriage by sea is issued, it must contain a statement that the carriage is subject to the provisions of this Chapter

which nullify any stipulation derogating therefrom to the detriment of the shipper or the consignee.

Article 568. General average

1. Nothing in this Chapter shall prevent the application of provisions in the contract of carriage by sea or this Code regarding the adjustment of general average.

2. With the exception of article 565, the provisions of this Chapter relating to the liability of the carrier for loss of or damage to the goods also determine whether the consignee may refuse contribution in general average and the liability of the carrier to indemnify the consignee in respect of any such contribution made or any salvage paid.

This Act enters into force six months after its promulgation.

This Act has been adopted by Saeima at .....