

RESTRUCTURING OF GEORGIAN RAILWAYS - LEGAL CONSIDERATIONS

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RESTRUCTURING OF GEORGIAN RAILWAYS - LEGAL CONSIDERATIONS

1. Introduction

The task of the legal expert requires an assessment of the legislative environment and the provision of guidance on the drafting of a new railway law. The existing legal framework in Georgia has been studied and a suggested draft law has been prepared; the latter is a new document as the model based upon the TRACECA legal and regulatory framework project was considered not to be suitable for the reasons set out later.

2. Legal Framework - Summary.

- 2.1 Railways in Georgia are part of the network developed by the former Soviet Union and were regulated accordingly. With independence an entirely new situation arises; based upon an examination of the legal instruments referred to below and interviews with the Head of the Legal Department of the Ministry of Transport and discussions with local lawyers, the developments since independence are described in outline in this report.
- 2.2 In the former Georgian Railways were divided into 27 separate administrations, which reported to Moscow. One of these administrations, Caucasus Railways, was located in Georgia and Armenia; the significant and greater part of that railway network is in the territory of Georgia and now comprises Georgian Railways.
- 2.3 Following independence, a law dealing with railways was enacted on the 12th May 1994. The present Constitution of Georgia dates from 1995, and in order to comply with its requirements, the law on railways was amended in 1997. This railway law, as amended, is extensively reviewed later in this report.
- 2.4 Central to the organisation of enterprise in Georgia are the laws "On Entrepreneurs" (1994) and "On the Structure and Activities of Executive Power" (1997). These laws have been studied as has the Constitution of Georgia.
- 2.5 A new draft railway law based on the TRACECA model code had been worked upon within the railways administration for over a year and it is believed has been proposed by the railways administration for enactment. However, this has been done independently of the Ministry of Transport. This draft is extensively reviewed later in this report.
- 2.6 The law "On the Structure and Activities of Executive Power" envisages the existence of a railways department - Article 15.4 provides that the head of the Georgian Department of Railway Transport shall be

appointed to and released from office by the President of Georgia. An agency of this kind would either report directly to the President of Georgia or to a Minister of the Government of Georgia. The railways presently *de facto* function entirely independently of the Ministry. Organisationally, the functions of the Ministry having to do with railway transport may be grouped in a structural unit; however it is strongly recommended that these should be regulatory in nature and have nothing to do with the commercial or technical management of railways.

- 2.7 The law "On Entrepreneurs" (Article 2.5) declares that the registration of enterprises is necessary, and lists the various kinds of enterprise. Where the present railway administration is concerned, it is clear that a joint stock company is appropriate.
- 2.7 The present railways administration should be viewed as an *ad hoc* one, since no charter has been put in place determining the management and structure of the railways administration, or its relationship with the Ministry of Transport. This needs to be rectified through legislation and the railways need to be given the necessary foundation to operate as a commercial enterprise. If the railways were to be a state agency, governed by the law "On the Structure and Activities of Executive Power" it would not enjoy commercial freedom; it would not be independent of the state, being part of the state, and would be little different from the type of administration which existed in the former Soviet Union.
- 2.8 International traffic is dealt with within the general structure of the present CIS. The technical regulations consist of the former rules of the Soviet Union Railways. While the present railway law refers to a charter for railways, none has been put in place.

3. Monopoly and Price Control Issues.

- 3.1 Under the present railway law, all tariffs (passenger and freight) are confirmed by the Ministry of Transport with the agreement of the Ministry of Finance. International tariffs are determined on the basis of relevant contracts and agreements.
- 3.2 Under Article 1 of the present railway law, railway transport is a monopoly - it envisages railway transport as a single system; however it acknowledges some participation by private enterprise.

4. Review of the law "On Railway Transport".

- 4.1 Annex 1 to this report contains a translation commissioned by the project of the law on railway transport. What follows is an article by article commentary on that law.

Preamble

The law is expressed to regulate railway transport activity, which is very satisfactory in that this approach is one which may allow for a multiplicity of railway transport enterprises.

Article 1

Article 1 allows for the possibility of private enterprise providing passenger, consignees and consignors services. This should be supported with a framework within which other railway enterprises may operate.

Article 2

This deals with the structure and management of railway transport. State control over transport is to be exercised by the Ministry of Transport and the Department of Railway Transport. The competence of the latter is stated to be determined by the Ministry of Transport. The Charter of the Railway Transport Department and railway regulations are to be confirmed by the Minister of Transport; the management structure is regulated by Georgian legislation; the Head of the Railway Transport Department is appointed by the President of Georgia on the nomination of the Minister of Transport.

The Charter above referred to has not yet been prepared. The legislation referred to is the Law on the Structure and Activities of Executive Power, which deals with the management of State Agencies. The railway considers itself to be such a State Agency.

This gives an unusual degree of independence to the railway, similar to that which existed in the former Soviet Union. The independence of the Head of the Railways Department (personally, in practical terms, answerable only to the President of Georgia) appears to have resulted in a stalemate between the railways and the Ministry.

However, it would be better if in regard to railway management, this Article, suitably amended, were expressed to be a transitional provision pending the establishment of the present enterprise of the Railway Transport Department as a State owned joint stock company. In establishing the joint stock company, the railway infrastructure should be excluded from its balance sheet.

Following this the law "On Entrepreneurs" should generally apply, subject to requirements as to competence in the technical field of the management personnel concerned with operations, and subject to specific requirements concerned with the transparency of accounting. Georgian Railways should also be subject, while it is within the majority

ownership of the State before and after becoming a joint stock company, to the achievement of objectives set out in a performance agreement between the State and the enterprise which should cover a five year “rolling” period, renewed annually.

The Article could also provide for a system of licensing of railway operating and management enterprises and their rolling stock based on satisfactory competence and financial resources; pending the establishment of the licensing section in the Ministry, this function may be undertaken by Georgian Railways for a limited period as agent of the Ministry.

Article 3

This sets out the legislation affecting railway transport.

Articles 4 & 5

Article 4 sets out the property of “railway transport” - covering rolling stock, power resources, telecommunications and signalling, loading equipment, structures etc. and prohibits their transfer without the consent of the Railway Department.

Article 5 sets out the territory of the railway which is needed to serve the railway infrastructure and for its development and also requires that the Railway Department carries out works to rectify environmental damage.

A better approach would be to:

- provide a definition of the railway infrastructure which includes the land and structures - telecommunications, signalling, stations, railheads, freight handling facilities etc. - which are essential to the flow of the railway traffic;
- provide that the railway infrastructure shall belong to the State of Georgia and may not be transferred (except for the disposal of redundant equipment) without the consent of the Government, but may be made available for the use of railway enterprises through licensing or franchise or access agreements;
- provide that the State shall enter into contracts with one or more qualified competent infrastructure managers on commercial terms for the maintenance, development and operation of the infrastructure, (the first such contract being for a transitional period with Georgian Railways);
- provide that rolling stock and other machinery and equipment may not be transferred by a railway enterprise during its operational life without the consent of the Ministry of Transport;
- provide for a planning process for regulating protective zones for railways, to be the responsibility of the Ministry of Transport;

- require the Ministry of Transport and all railway enterprises to observe the requirements of laws concerned with the protection of the environment, and to make good any damage caused to the environment.

Article 6

This Article deals with tariffs and provides for these to be set by the Ministry of Transport in agreement with the Ministry of Finance, except for international transit which is to be on the basis of agreements.

The likely purpose of this is to prevent abuse of a monopoly position by the railway for freight transport and ensure low fares for passengers; however it is not appropriate except in situations where the railway has a monopoly.

A better provision would be to:

- provide that railway enterprises shall be free to set their own tariffs in respect of freight, the only exception being where the railway enjoys a natural monopoly;
- where monopoly considerations apply, the tariff set by the Ministries shall be commercially based; if this is not possible, losses should be reimbursed to the railway enterprise by the Ministry of Transport;
- where passenger services are concerned, the State should initially reimburse losses where uneconomic services are required to be undertaken, and as soon as circumstances permit, introduce a contract system based on commercial principles for these services. Losses from these services should not be cross-subsidised from freight services.

Article 7

These provisions deal with safety and security matters. In regard to legislating for this, a licensing system for rolling stock and a regulatory system concerning procedures to be followed should be considered; control of this should rest with the Ministry, but a transitional period where this would be done by “Georgian Railways” will be necessary.

Article 8

This article deals with protection of cargo etc. There is reference to a role for transport police which comes under the Interior Ministry, and is not a cost to the railway. This respects the general principle that the railway should be liable for normal security, but extraordinary security should be the responsibility of the State.

Article 9

This article deals with the co-ordination of activity following disasters.

Article 10

This article applies the civil and criminal law of Georgia to persons causing damage to the railway.

Article 11

This article applies the general law dealing with relationships between employers and employees to railway staff. There is a necessity to also make provision for critical staff to satisfy health and fitness requirements and to be of the required standard of competence. This can be met through a licensing system.

Article 12

Applies the Georgian language to management and operational matters. It should also allow for other languages to be used for international traffic, in accordance with international agreements.

Article 13

This applies Tbilisi time to the railway.

Article 14

This applies international agreements to international passenger and freight transport, and to combined transport.

Article 15

This applies the Civil Law to breach of contract by the railway enterprise. It might be extended to apply the law to all aspects of transport contracts.

Article 16

This requires the railway enterprise to provide obligatory insurance for personal injuries to passengers, and optional insurance in respect of freight and luggage.

Article 17

This article provides that access by neighbouring railways is dealt with in the railway charter (which has not yet been created). The control of this function should be exercised by the infrastructure manager (see above) in accordance with the terms of the infrastructure management agreement. The principle of equitable terms of access should apply (subject to reciprocation on the part of the railway authorities of neighbouring countries).

General Comments

In addition to the comments set out above, additional matters arise, which are discussed below:

The management of the railway according to commercial principles.

Article No. 2 above may be extended to deal with the specific form of accounts to be maintained by railway enterprises, including Georgian Railways during the transitional phase. Separate cost and revenue accounts should be kept for freight, passenger and infrastructure activities.

Social services.

These services (except in regard to railway transport) should be taken from the railway enterprise, by establishing independent enterprises pursuant to the law "On Entrepreneurs" which may be State owned and supported where necessary from the State budget.

Ancillary activities.

These may likewise be removed from the railway enterprise, without obligation on the part of the State for financial support.

Private sector participation.

If the licensing system envisaged in the commentary on the law of 1997 as set out above is put in place, this should allow for private sector participation. Also, if Georgian Railways becomes a joint stock company it will be capable of establishing joint ventures. The suggestions above envisage that the Ministry will enter into access agreements with other transport providers, and into contracts for infrastructure management, operation and development.

5. **Review of the present draft railway law based on the TRACECA Model.**

- 5.1 The Georgian railways administration revised and amended the TRACECA model and sought to submit it to parliament for enactment. A copy of this is set out in Annex 2. The review takes the form of introductory remarks followed by detailed comment on the article as contained in the revised draft.

Introduction.

The Scott Wilson Kirkpatrick (“SWK”) model Rail Transport Code is one of a series of model laws developed for use in the TRACECA countries. As SWK acknowledges, the models do not have to be slavishly followed and will require adaptation in order to suit national policy. The draft now under consideration for enactment in Georgia is an adaptation of the model.

The model developed by SWK is loosely based on that for French railways (SNCF) with the addition of much of the COTIF/CIM provisions coupled with substantial elements from the previous Georgian Railways statutes.

By way of preliminary comments:

- a model based on that for French railways SNCF is unlikely to sit easily with what is needed in the TRACECA countries. SNCF is probably the most technically advanced railway in the world, it consumes a vast quantity of investment funds and enjoys the support of the population as representing the excellence of French scientific and technical development. This, rather than any particular attractive quality of French Railway Law, is the reason for its success. In the case of the TRACECA countries, a model based on the legislation enacted in Germany after unification to deal with the railways of the former East German state might be more appropriate;
- international conventions such as COTIF consist of a set of rules subscribed to and supported in national legislation by the authorities of the countries concerned, following development by representatives of railway transport in those countries, often at the prompting of international agencies. The need for legislation arises because without legislation, the railway enterprises of a small number or even one of the countries might disregard the terms. Legislation is therefore needed to promote confidence in the convention. Where national rather than international considerations apply, this is not necessary, or even desirable, since it leads to rigidity and inflexibility, and can result in a conflict of laws within the national jurisdiction. It is better by far for the Civil Law to apply in contractual matters, with the railway enterprises also free to develop suitable contractual regimes with customers, subject to control by the State, where necessary, to curb abuse of monopoly or dominant positions;
- while overnight change from the practices of the former Soviet Union is not possible, only to the extent that a country sees it to be necessary is it advisable to continue with elements of Georgian Railways statutes.

- as a general principle, laws should not be any longer than necessary;
- in a developing situation, it is a better approach to provide a framework permitting transition and development at a pace which is sustainable. If the law is too elaborate, it will not be fully observed, for reasons of practicality, and this will tend to undermine the law as a whole.

Review

The draft developed by the present railway administration in Georgia is an adaptation of the SWK model. The changes to the SWK model do not represent a move towards commercially orientated principles.

Article 1.

This sets out the purpose of the law - it is in the nature of a preamble. It would be preferable if the ordinary law were to deal with contract matters. It is not clear what "Railway" means - is it Georgian Railways or railways in general - this is very important.

Article 2.

What is meant by saying Georgian Railways is independent? Giving Georgian Railways recognition as a legal person without a structure is not advisable. The law should also extend the legal independence to all licensed railways.

Article 3.

This article sets out the legislation which applies to railways and is based on the SWK model.

Article 4.

This article deals with transport policy and is based on the SWK model. It is far from clear how the suggested role of regional bodies would operate, and could make planning cumbersome and bureaucratic.

Article 5.

This is the definitions article. There is no definition for "Railway". This has serious implications elsewhere in the text and tends towards making an independent monopoly. There is no definition of "Railway Infrastructure" (nor is there one in the SWK model) - this definition is essential.

Article 6.

This provides for an obligation to carry passengers, freight and baggage. It is based on the SWK model. As it stands it seems reasonable, however is it necessary? Matters such as this can be better regulated through a performance agreement with the State.

Articles 7 & 8.

These articles contain the SWK material in slightly different order, and with modifications. Both versions would require amendment. The law should instead deal with the railway infrastructure, which must remain in the ownership of the State, and Georgian Railways and other railway enterprises where certain restrictions on the disposal of their rolling stock etc. are advisable in the national interest. The possibility of privatisation of Georgian Railways should be recognised, subject to Government decision, and to the establishment of new railway enterprises (both in private and State ownership).

Article 9.

This article contains a subtle change to the SWK draft; it would give unlimited control to Georgian Railways of the railway lands. The draft requires amendment - these lands should be part of the railway infrastructure, the use of which by railways is regulated by agreements with the Ministry of Transport.

Article 10.

This article deals with protection zones

Article 11.

This article deals with railway transport management. It appears to give complete independence to Georgian Railways; however the complete absence of supervision constitutes a serious defect. The appointment and removal of the Head of Georgian Railways by the President of Georgia suggests that in practice there will be little accountability on the part of Georgian Railways to the Ministry of Transport. The management of the railway infrastructure, in particular, should ensure that other railway enterprises may operate on the infrastructure on equitable terms and in competition with Georgian Railways. This is hardly possible if Georgian Railways is in a position to impose unreasonable terms on its competitors.

Where the obligation to operate on commercial principles is concerned, and in regard to financial planning, much more detail and elaboration is needed - the SWK model is also does not provide this.

Article 12.

This article appears to provide that State supervision of railway transport shall be executed by Georgian Railways. Thus Georgian Railways would supervise both itself and other railway enterprises. Clearly this is not ideal. The article also provides for State control over the establishment and cessation of railway enterprises - this would better be exercised by the Ministry rather than by the Government.

Article 13.

This article applies "single national time" to railway transport.

Article 14.

This article provides for control of rolling stock standards. A licensing system would be better.

Article 15.

This article deals with the operation of railway stations, and places them under the control of Georgian Railways. It would be preferable if this matter were addressed within the context of the railway infrastructure.

Article 16.

This article is unclear as to how tariffs are to be set. The objective ought to be that the railway enterprise should be free to set tariffs, as it is in competition with other modes of transport, except where protection is needed for customers in situations where the railway has a natural monopoly. The article also deals with the re-imbusement to the railway of losses caused by the imposition of obligations to provide uneconomic passenger and freight services. However it does not set out explicitly where these responsibilities lie, nor does it explicitly prohibit the cross-subsidisation of these services from profitable freight services.

Article 17.

This article provides for cargo to be transported on the basis of contracts, on the agreement of the parties where not elsewhere defined.

Articles 18 - 35 & 43 - 57

These articles set out a complete and elaborate regime of contractual and operational matters. This can only result - if the proposals are workable at all - in an elaborate set of procedures which become set and inflexible, inhibiting the ability of railway enterprises to innovate and become more efficient.

There is no reason why contractual matters cannot be dealt with having regard to the general civil law relating to contracts and by the railway enterprises developing their own terms and conditions. This will in any event be controlled through the various licensing requirements as to rolling stock, equipment etc., access agreements, and the agreements between the Ministry and the infrastructure manager and between the Ministry and Georgian Railways (and if relevant, between the Ministry and other State owned railway enterprises). To the extent that is necessary, prevention of abuse of monopoly positions can be dealt with in the appropriate way.

Detailed comment on the individual articles is not being made, because of time constraints and because the enactment of such legislation would surely require detailed consultation with and input from other Ministries, which is not envisaged and which if embarked upon would cause substantial delays to the enactment of the Railway Law.

Instead it is recommended that these articles be deleted.

Articles 36 & 37.

This deals with “access railways”. This might better be regulated through track access agreements between the owners of these railways and the Ministry as owner of the railway infrastructure (usually acting through the agency of the infrastructure manager). These agreements will address all the relevant technical, operational, charging and licensing matters.

Articles 38 - 42.

Intermodal transport is dealt with under these articles. Here again, it is best not to legislate for these matters. The State as owner of the railway infrastructure and as the owner of the ports can determine the rules of operation; the transport providers should agree as between each other the contractual terms insofar as the intermodal aspects are concerned, and the contract with the customer and the general civil law can address other issues.

Accordingly it is recommended that these articles be deleted.

6. Discussion and conclusion on the requirements for a new railway law.

6.1

Amendment of the existing Railway Law to take into account the recommended changes will have the following effects:

- the railway law will be kept relatively short;

- it will be in a form which is reasonably familiar to the Ministry and Georgian Railways;
- pressure of time will be kept to a minimum.

These are all positive effects, however it must be borne in mind that the text will be entirely new which may lengthen the evaluation time. However, the concerns expressed by the EBRD will be addressed by reference to the principles of Railway Restructuring and Commercialisation described in the EBRD letter of 14 October 1997, and the evaluation process is unlikely to be lengthened unduly.

6.2

Amendment of the draft based on the SWK model to take into account the recommended changes will have the following effects:

- the railway law will be in a form which may have similarities with that in other TRACECA countries;
- it will be in a form with which the EBRD is familiar.

These are positive effects; against them must be weighed the following negative effects:

- even omitting the articles dealing with contractual and operational matters, the railway law will be very long;
- the process of drafting will be very difficult because of incompatibilities, causing delay which cannot presently be quantified;
- the form will be unfamiliar within the Ministry;
- evaluation within the Ministry and Parliament will take longer;
- time pressures will be aggravated.

Balancing the effects, the advantage of the similarity of railway law with that in other TRACECA countries is more apparent than real. A law based on an amendment of the existing law will not cause any incompatibility, since the contractual and operating procedures will be the same for international traffic and international agreements and conventions will apply.

6.3

In all the circumstances, the clear preference is to amend the existing law.

7. New draft railway law.

- 7.1 Based upon the above conclusions, a new law on railways has been drafted. This is contained in Annex 3 to this report. It is still in the nature of a discussion document; discussions are ongoing with the railways personnel. It also has been submitted by the Ministry of

Transport to the parliamentary sub-committee on transport issues of the Committee of Branch Economy. It is currently being studied; a meeting has taken place attended by the Chairman of the sub-committee, the head of the railways legal department and the legal expert in the project team. Preliminary discussion has taken place at which a request for a further meeting was made by the Chairman.

7.2 The text of the draft law is contained in Annex 3 and there follows an article by article commentary on this draft.

7.3

Preamble.

The preamble in the existing law has been retained.

Article 1.

The existing Article 1 has been retained.

Article 2.

The new Article setting out definitions has been incorporated. This deals with railway as a system of transport allowing for a multiplicity of railway enterprises. Most importantly, it contains a definition of railway infrastructure - this is based upon the definition contained in EU Council Directive 91/440.

It also incorporates a definition of “public service obligations”.

Article 3.

This set out a number of transitional provisions. It envisages the railways being formally constituted as a structural unit within the Ministry of Transport for a transitional period, pending the incorporation of a joint stock company pursuant to the law “On Entrepreneurs” not later than 6 months after the enactment of the law. It envisages the preparation of ministerial functions from the functions of the railway joint stock company (Article 3.5) and the stripping out of non-transport social activities (Article 3.6).

Discussion following the preparation of this draft law suggests that it would be more appropriate for the transition to be achieved through an order of the President rather than through legislation - for parliament to legislate as envisaged in Article 3 of this draft might have constitutional implications. The draft was a suggestion on how the transition might be achieved; the important issue is that a transition of the kind envisaged will be necessary.

Article 4.

This provides that the Law on Entrepreneurs shall apply to the railway joint stock company; that the state owned shares in that company be under the power of management of the Ministry of Transport and allows for an ongoing and developing system of re-organisation on commercial principles.

Article 5.

This retains Article 3 of the present law.

Article 6.

This declares that the railway infrastructure shall always be the property of the state; it envisages the infrastructure being managed by a railway enterprise in accordance with a contract entered into with the Ministry of Transport. In the context of the present re-organisation, the contracting railway enterprise will be the present railway administration when established as a joint stock company.

Article 7.

This incorporates Article 5 of the present railway law.

Article 8.1.

This follows the principles enshrined in EU Council Directive 91/440 in providing independence in the direction management and administration of railways. It recognises the need for Georgian railways to be managed according to commercial principles and is transparent accounting in respect of infrastructure, passengers and freight.

Article 8.2.

This envisages a formal business planning process requiring Georgian Railways to operate on the basis of 5 years, "rolling" business plans.

Article 9.

This deals with public service obligations and non-commercial services imposed by the state. It recognises that the government should be made liable to pay compensation for the losses thus imposed.

Article 10.

This provides freedom to railway enterprises to set tariffs in respect of freight transport save only where protection is needed where monopoly situations arise.

Article 11.

This deals with the management and operation of the railway infrastructure; it sets out the functions of the Ministry of Transport, the system of management of the infrastructure on the basis of contracts entered into with railway enterprises and a regime of charging fees for the use of the enterprise. It provides for the licensing of railway operators and the provision of access to the infrastructure to railway operators on a non-discriminatory basis. By comparison, EU Council Directives 95/18 and 95/19 (as well as 91/440) adopt a like approach.

Article 12

This Article provides for the supervision of railway safety to be undertaken on behalf of the state by the Ministry of Transport. Arrangements made for the appointment of inspectors and for the making of regulations. This Article incorporates elements of the present railway law - for example, Article 7.

Article 13

This Article incorporates the provisions of Article 8 of the present railway law.

Article 14

This Article incorporates the provisions of Article 9 of the present railway law.

Article 15

This Article corresponds with Article 10 of the present railway law.

Article 16

This incorporates the provisions of Article 11 of the present railway law applying the legislation of Georgia to the terms of employment of staff. It also provides for the making of regulations by the Ministry concerned with the training of specific categories and employees and the certification of their competence and compliance with medical standards.

Article 17

This Article incorporates the provisions of Article 12 of the present railway law.

Article 18

This applies TBILISI time to railway activities.

Article 19

This deals with delay and follows the provisions of Article 15 of the present railway law.

Article 20

This deals with compulsory insurance in respect of injury to passengers and follows Article 16 of the present railway law.

1/3

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Legal Expert

30th October 1998

Annex No. 1

(Note: This translation was done by the project team; it has not been validated by local lawyers)

THE LAW OF THE REPUBLIC OF GEORGIA ON RAILWAY TRANSPORT

“The Law on Railway Transport” determines economical, legal and organisational basis of Railway Transport Activity, its place and role in national economy, regulated its relations with passengers, consignees and consignors.

Article 1. Railway Transport in National Economy.

Railway Transport is a part of single transport system, satisfies needs of population, enterprises and organisations of governmental and non-governmental sector, concerning transportation and transit and other services in local and international conveyance, also carries out military transit based on the charter on railway transport military transit, which is confirmed by the President of the Republic of Georgia

Private juridical persons may implement passengers, consignees and consignors service by the rule which is regulated due to the legislation.

Article 2. Structure and Management of Railway Transport.

State control over railway transport is carried out by The Ministry of Transport of the Republic of Georgia together with departments of Railway Transport, the competence of which is determined by the provision of the Ministry of Transport.

Charter of Railway Transport as well as regulations of technical exploitation are confirmed by the Minister for Transport of the Republic of Georgia, but management structure, re-organisation, change and determination of railway boundaries is regulated by the legislation of the Republic of Georgia.

The head of the Railway Transport Department, by the nomination of the Minister of Transport, is appointed and released by the President of the Republic of Georgia.

Article 3. Legislation in the Sphere of Railway Transport.

The legislation in the sphere of railway transport consists of the Constitution of Georgia, contracts and agreements of Georgia in International sphere, provisions of the Ministry of Transport of the Republic of Georgia and other normative acts.

Article 4. Property of Railway Transport.

Main funds of railway transport, rolling stock, rail and power economy, telecommunication and signalisation equipment, loading and unloading machinery, constructions and other objects, which are envisaged in the railway balance, is the property of railway transport.

Transfer of industrial and non-industrial objects to other organisations is forbidden without the consent of the Department of Railway Transport.

Article 5. Territory of Railway Transport, Zones for Protection and Protection of Environment.

In accordance with the legislation of Georgia, territory of railway transport is the territory in its usage.

Territory of railway transport is allotted for rails and stations (including right of way) as well as for constructions, buildings and other objects, which are necessary for development and exploitation of the railway. "Right of way" is adjoining territory of the railway, the sizes of which are determined by confirms norms and documentation, but no more than 20 metres on each side of outlying rail is allowed.

For the provision of normal exploitation of rails, equipment and other objects of the railway transport, located in the places of natural calamity, protective zones are regulated.

The rule on determining of protective zones, their sizes and regime of using the territory, which is allotted for this purpose, is determined by the legislation of Georgia.

Railway Transport enterprises and organisations are obliged to make provision for effective use of natural resources, and to safeguard the environment from contamination.

The Department of the Railway Transport is obliged to make re-constructions and compensate damages of ecological character in order to eliminate the results of accidents, crashes and other cases, caused by railway transport.

Article 6. Tariffs of Railway Transport.

All tariffs of passengers transportation, cargo and mail transit within the Republic of Georgia are confirmed by the Ministry of Transport of Georgia with agreement of the Ministry of Finance of Georgia, but the tariffs of international transit (including the

republics of the former Soviet Union) are determined on the basis of their contracts and agreements.

Based on the contract, it's possible to compensate the work and service fulfilled by the request of cargo owners (work and service that are not envisaged by tariffs).

Article 7. Security of Railway Transport.

The Department of Railway Transport is obliged to make provision for safe movement of trains.

Rolling Stock, equipment and other technical means must correspond to the rules of railway exploitation, and requirements regulated by security, labour protection, ecological and state standards.

Railway stations and other enterprises, where intensive movement of trains is taking place and the shunting works are carried out are zoned of extended danger. In this area the rules of work producing, movement, rail crossing are regulated by the Department of Railway Transport and confirmed by the Ministry of Transport of the Republic of Georgia.

Near the buildings and rails of general use, it's forbidden to locate the objects which are connected with the produce of radioactive, explosive, poison, toxic substances, with their storage, transportation, loading and unloading as well.

The minimal approaching distance of rails to those objects as well as the places of railway intersections by pipes, communication and electronic lines are determined by appropriate constructive norms and rules, and co-ordinated with the Department of Railway Transport.

All the organisations and enterprises which send and get explosive, poison, radioactive and other kind of dangerous cargo (and) are obliged to make provision for their safe transportation based on the charter of the railway.

During the transportation process, protection of dangerous cargo is provided by transport police.

Article 8. Protection of Cargo and Objects in Railway Transport.

During the transportation, the protection of cargo, luggage and mail is provided by the Department of Railway Transport.

The most important objects and special cargos of railway transport in stations and during the transportation are protected by transport police. The list of such objects and cargo is confirmed by the Ministry of Transport of the Republic of Georgia by the nomination of the Department of Railway Transport.

The Department is materially responsible for consignees and consignors.

The realisation of the cargo which lacks the appropriate documentation and the cases of unprotected transportation are considered due to the legislation.

Safeguard of public order, struggle against criminality and fire control on railway transport must be provided by transport police and its territorial sub-divisions together with the enterprises and organisations of railway transport.

Anti-fire prophylactic operations are implemented and fires are extinguished by special organ of the Department of Railway Transport, in case of emergency - together with the fire brigades of the Ministry of Internal Affairs.

Article 9. Organisation of Working of Railway Transport in case of Emergency

Railway transport enterprises and organisations are immediately taking measures to eliminate all kind of crashes, accidents and events of natural calamity that may be preventive for the future development of railway transport.

Transport police, territorial sub-divisions of the police, troops and sub-divisions of the Ministry of Defence help railway transport to eliminate the results of crashes, accidents and events of natural calamity that may be dangerous for people's health, train movement, cargo storage and protection.

Local bodies of authority are obliged, during the natural calamity, to fulfil all kind of work due to the demand of the railway.

Article 10. Responsibility for Damaging of Technical Means, Prevention, Blocking up of railway Work.

Responsibility of an individual for damaging of technical means, prevention and blocking up of railway work is determined by the rule regulated by the legislation of Georgia.

Article 11. Working relations of Railway Transport Staff

The working relations of railway transport staff are regulated by the legislation of Georgia

Article 12. The Language of Management of Control and of Communication in Railway Transport.

All kind of accounting, balance, commercial, technical documentation, telecommunication, legal and technical information as well as relations of the staff in railway enterprises and organisations which are connected with the provision of train movement, passenger transportation and cargo transit is implemented in Georgian.

Article 13. Time for Accounting and Calculation in Railway Transport.

In the organisations and enterprises of the railway transport, which spontaneously take part in cargo transit, the time of single calculation and accounting is regulated - time of TBILISI, in order to provide the centralised management of the above-mentioned process.

Article 14. International Economical Activity of Railway Transport.

The organisation of passenger transportation and cargo transit in the international and mixed movement is carried out on the basis of International agreements and contracts.

Article 15. Responsibility of the Department of Railway Transport.

For breaking cargo delivery date as well as late delivery of cargo to the destination and the late delivery of passengers to appropriate stations the responsibility of the railway transport department is determined, based on the legislative rule.

Article 16. Passenger, Cargo, Luggage Insurance in Railway Transport.

For the social maintenance of passengers and the members of their families, state obligatory insurance of passengers from casualties is functioning in the railway transport.

In railway transport, voluntary insurance of cargo and luggage is also possible.

Article 17. The relations with approaching Rail Owners.

The relation of railway transport with organisations and enterprises, which have approaching rails, the conditions and rules of movement of their own rolling stock on the rails of general use is determined by railway charter.

The above-mentioned enterprises and organisations provide the safe movement of trains on approaching rails as well as the appropriate care of technical equipment and the effective use of rolling stock.

President of Georgia.

Mr. E. GHEVARDNADZE.

The law was passed in May 12, 1994. All amendments and changes were made in November 11 of 1977.

Annex No. 2.

Part I

General Provisions

Article 1.

Economic, legal and organisational basis as well as the place and role of railway transport in Georgia's economy and social sphere shall be defined by this Code. It regulates relations between the Railways, consignors, consignees, passengers and other juridical and natural persons being the recipients of railway transport services; it defines their rights, obligations and responsibilities.

The code defines the main conditions for passengers, cargo, baggage and freight transportation, relations between railways and other kinds of transport; it also sets basic regulations for the use of rails. This code also provides for the regulation of passenger transportation through railways of general use; of cargo and baggage including the cargo loaded/unloaded using the railway lines, still under construction, linked to the rails of general use.

Article 2. The Role of Railway Transport for the State Economy and Social Sphere.

1. The Railway transport of Georgia is one of the basic branches providing for cargo transportation and passenger services, promoting viability of all branches of economy and safe transportation of passengers and cargo the establishment of services market for national and international transportation and effective development of entrepreneurship. The state regulates and controls its activities; promotes the development of its material and technical basis and satisfaction of national needs. In some cases the Railways may be considered a natural monopoly determining special conditions for functioning and development of railway transport.

2. The state ensures the independence of railways in its economic activities; also the budget and accounts of railways is independent from the state budget and accounts.

The Georgian Railways as an independent legal entity, is liable for its assets, has the right to enter into credit agreements and formalise contracts with international financial organisations and foreign companies.

Article 3. Legislation on Railway Transport

1. This code defines main provisions for railway transport legislation in Georgia.

The legislation on railway transport is based on the constitution, the Civil Code, Antimonopoly legislation, Law on the Protection of Consumers' Right and other laws; also on normative acts issued in compliance with the above laws and regulating railway transport activities.

Legal relations not covered by this code are regulated by legal and normative acts not conflicting with the provisions of this code, also by international agreements and treaties.

2. The executive body of the transport branch shall, on the basis of this code and with the participation of interested ministries and bodies, elaborate and approve the rules for cargo,

passengers, freight and baggage transportation through railways. These rules are registered by the Ministry of Justice. The executive body in the transport sector also approves the rules for passengers transportation, provision of passenger services and servicing cargo, baggage and freight of natural persons for their private use.

Organisation and provision of military transportation is regulated by the statute on military cargo transportation approved by the president.

3. Normative acts defining the functioning, development, passenger and cargo transportation rules and conditions, use and protection of railway transport, security, public order, crossing rails by other kinds of transport and facilities, labour protection, fire security and sanitary rules are in force on the Georgian Railways and shall mandatory for all juridical and natural persons on the territory of Georgia.

4. Relations on the Railways, its territorial units and enterprises and agencies under them, issues related to planning passenger and cargo transportation, organisation and supplies, distribution of income from passenger and cargo transportation, technical maintenance, protection of technical facilities, repairs and development shall be defined by the rules pertaining to Railways as well as by the agreement between the state and the Railways.

5. Where rules stipulated in this article differ from those stipulated in international agreements (treaties) on railway transport, they shall be superseded by the latter.

Article 4. Transport Policy in the Field of Cargo / Passengers Transportation

1. Common state policy in the field of cargo/passengers transportation provides for harmonious development of private and state railway transport taking into account its priority importance for regional transport construction and development, environment protection, energy efficiency and security, common state policy ensures expenditure on infrastructure, equipment, purchase of carriages, their use and maintenance.

2. Transport policy creates grounds for fair competition between different kinds of transport and clients, regulates conditions for their exploitation and assists their co-operation through effective development of mixed transportation.

3. Common transport policy is carried out jointly with state regional bodies on the basis of democratic planning with the participation of all interested parties. It allows for the elaboration of transport development projects by taking account of plans for national and regional development.

4. To meet the above objectives an agreement may be concluded between the state, its territorial bodies and the railways transport.

Article 5. Terms Used in This Law

For the purposes of this law the following terms shall be used:

"Railway transport" shall mean a mode of general transport by which passengers and cargo are transported through transport facilities moving on rails.

"Territorial Division of the Railways " shall mean railways enterprise organising and ensuring passenger, cargo, baggage, freight and post transportation to the region to which it provides services.

"Railway line enterprises" shall mean railway stations, directorate for passenger services, locomotive and carriage depots.

"Right of way" shall mean flat land pertaining to railway transport on which artificial construction, railway enterprises, railway power supply and communication facilities, railway stations, protection forests/vegetation and other sites required for railway exploitation are situated.

"Protection zones" shall mean areas of land necessary to ensure security, strength and sustainability of railway transport constructions, facilities and other sites; also slide-prone land adjacent to right of way.

"Rails for general use" shall mean rails through which railway stations perform operations: receive and send trains, passengers, cargo, freight, baggage and post; also perform shunt.

"Dangerous cargo" shall mean substances, goods, materials, industrial and other wastes included in a specific list. Due to their features and peculiarities they may become the cause of fire or damage inflicted on transportation facilities, cargo, equipment; or the cause of explosion of buildings, death of people, animals and birds; also the cause of injuries, poisoning, burns, diseases and environmental pollution.

"International railway transportation" shall mean the transportation of passengers, cargo, baggage, freight and post between Georgia and foreign countries.

"Domestic railway transportation" shall mean the transportation of passengers, cargo, baggage, freight and post within the territory of Georgia.

"Consignor" shall mean a person who concludes agreements on railway transportation with forwarders or on whose behalf these agreements are concluded; or shall mean a person who hands cargo over to forwarders or on whose behalf the cargo is handed over to forwarders in compliance with the agreement.

"Consignee" shall mean a person responsible for the receipt of cargo.

"Bill of lading" shall mean a written agreement on railway transportation accompanying cargo throughout its transportation and containing relevant information.

"Transportation documentation" shall mean a passenger ticket, baggage ticket, cargo ticket, bill of lading and a road book.

"**Rolling stock**" shall mean transportation facilities for cargo linked to each other as a single unit.

"**Container**" shall mean a unit for transportation for multiple use; it is a fully or partially covered storage for cargo; it is for multiple use and therefore is solid; it provides for cargo transportation by several means of transport without interim transportation, facilitates loading of cargo from one means of transport to another as well as its loading and discharge.

"**Passenger**" shall mean a person travelling by train and having a travelling document (ticket).

"**Baggage**" shall mean goods and items transported by a passenger.

"**Fees**" shall mean payments not included in the tariff for additional operations or works.

"**Freight**" shall mean goods and other items transported by passenger and cargo/post trains.

Article 6. The Right to Transportation and Issuing Relevant Information

1. The Railways shall transport passengers, cargo, baggage and freight where:

a) the consignors or passengers meet the requirements of this Code, the rules of passenger, cargo, baggage and freight transportation; also additional regulations issued by the Railways from time to time;

b) transportation can be carried out using ordinary personnel and ordinary means of transportation which meet the volume requirements for railway services;

c) transportation is not restrained by circumstances which cannot be avoided and eliminated by the Railways;

d) items to be transported are not included in the list of forbidden items for transportation or are allowed to be transported only under certain conditions stipulated in the Rules for cargo, baggage, passenger, cargo baggage transportation.

2. The client shall have the right to request information on transportation facilities and conditions for their exploitation.

3. The Railways shall not be liable for servicing cargo requiring special load lifting facility for its loading, transshipments and discharge if relevant stations do not have such facility.

4. The Railways shall be liable for servicing cargo which can be smoothly transported.

5. While using its services, clients shall have the right to conclude additional agreements with the Railways on the works and services related to transportation and not conflicting with the existing legislation.

6. Where cargo transportation cannot be carried out in compliance with railway cargo rules, the executive body responsible for railways jointly with consignors and consignees shall establish special conditions for cargo and responsibility of the parties for its safety.

7. The Railways shall be liable for the provision of passengers, consignors and consignees with necessary and true information on the services provided under this Code and in conformity with normative acts of Georgia.

In railway stations lounges, passenger carriages, places of servicing the consignors and consignees of cargo, freight, baggage and others, information shall be provided in Georgian; taking into account the interests of the local population, information may also be provided in other languages.

Article 7. On the Ownership of Railway Transport

1. State enterprise the Georgian Railways, including railway line enterprises, during the transition period shall remain in state ownership.

2. The right of way, protection zones and rails for general use shall not be subject to privatisation.

Decisions on the transformation of the Railway Transport and other enterprises subordinated to the Railways, into joint stock companies and privatisation of their property, also terms and conditions, shall be taken solely by the Government of Georgia.

Article 8. Property of The Railway Transport

1. The main assets of the Railway Transport, rolling stock, rails, energy enterprises, communications and alarm system equipment, loading-discharge facilities, buildings, constructions and other sides registered under the Railways, shall be the property of the Railway Transport.

Production and non-production enterprises being in the ownership of the Railway Transport shall not be handed over to other bodies without the permission of the Railway Transport Department.

2. In conformity with the Rules in the Railway Transport, contracts on the handover of the Railway Transport assets for industrial exploitation, also for sale, swap, lease, collateral, handover for temporary use free of charge, writing off rolling stock and containers and management of operations of enterprises and bodies shall be executed by the administration of the Railways.

3. Residential areas in houses the construction of which is funded from the profit of enterprises and bodies of the Railways, shall be privatised on the decision of the Railways administration.

Part II

Land and Protection Areas Pertaining to the Railway Transport

Article 9. Land Pertaining to the Railway Transport

1. Land handed over free of charge and for an unlimited period of time to enterprises and establishments subordinated the Railways and responsible for specific tasks shall pertain to the Railway Transport. Here also belongs the land assigned for rails and stations (including right of way and protection zones) and required for the exploitation and reconstruction of railways with the prospect of its development, define by the established norms and projected budget documentation, but no smaller than 20 metres from both edges of the railway.

2. The rules for the use of the land within right of way shall be determined by the Department of Georgian Railways Transport in conformity with the legislative requirements.

Article 10. Protection Zones of the Railways Transport

To ensure the security of the population and proper exploitation of rails and railway transport (including industrial sites and other means of transport) situated in the areas prone to landslides, avalanches, erosion floods and other hazards, protection zones shall be established.

The rules for the establishment of the protective zones, their number and the rules for using land within these zones, shall be determined by the executive government body in charge of transport.

Part III

Railway Transport Management System, Establishment of Enterprises and Cease of Their Activities

Article 11. Railway Transport Management

1. The competence of the Georgian Railways, the Railway Transport and other enterprises shall be defined by this Code and other legal and normative acts.

2. Control over the railway transport shall be executed by state bodies liable for performing controlling functions in conformity with the existing legislation.

3. Government and local governance bodies, public and other organisations shall not interfere into the technological management, commercial or industrial activities of the Railway Transport.

4. The candidature for the post of the Head of Railway Transport Department shall be submitted by the Minister of Transport and appointed and dismissed by the President of Georgia.

The management of the Railways shall be executed in conformity with the principles of commercial companies.

This shall also refer to contracts on public services concluded with competent state bodies.

5. The Railways shall independently elaborate business plans, investment and financial programmes.

6. In conformity with the main political directions defined by the state, national industry plans, including investment and financial plans, the Railways shall independently:

- control the provision of services and application of tariffs;
- make decisions on matters of personnel, assets and procurement;
- develop its share in market relations, elaborate new technologies and new types of services;
- carry out a new activities related to railway transport; elaborate and implement new and progressive methods.

Article 12. Conditions for the Establishment and Cease of Activities of the Railway Transport Enterprises.

1. The State supervision of the Railway Transport enterprises shall be executed by the Georgian executive government body represented by the Department of Railways. Its competence shall be defined in the Railway Transport Department Regulations.

The establishment, reorganisation and liquidation of the Railways shall be decided by the Parliament of Georgia. The establishment, of the borders of the Railways change and regulation the Railways management structure shall be carried out by the executive government.

2. The Railways administration shall decide on the establishment, reorganisation and cease of activities of the Railway enterprises and other sites.

Article 13. Time

Single national time shall be used among the enterprises and organisations of the Railways directly participating in the transportation.

Part IV

Organisation of Railway Transportation

Article 14. Transportation Facilities for the Transportation of Passengers, Cargo, Baggage and Cargo-Baggage

1. Passengers, cargo, freight and baggage shall be transported through the railways in railway cars and containers, also in railway cars owned or leased by juridical and natural persons.

2. The rolling stock, regardless of its ownership, to be used for the transportation of passengers, cargo, freight and baggage through rails, shall satisfy the requirement of the technical exploitation Rules of the Railways; a newly constructed rolling stock shall have the certificate of its compatibility with the existing requirements.

After capital repairs of railway cars their container volume shall be examined

Containers used for cargo regardless of their ownership, shall comply with existing standards. Newly constructed containers shall have the certificate of their compatibility with the existing requirements.

Article 15. Railway Stations

1. The Railways shall carry out relevant operations for passenger, cargo, baggage, freight and post transportation.

The stations shall perform operations related to the receipt, loading, discharge and release of cargo in railway cars, minor consignments and containers, also operations related to the transportation of passengers, cargo and cargo baggage.

Cargo agencies, cargo and box offices and other units shall be established with a view to formalise transportation documentation and collect charges for servicing and transportation of passengers, consignors and consignees. Stations shall be opened and closed down, also all or some of their operations shall be carried out or terminated on the decision of the Railway Transport Department administration. Information on these decisions shall be published in the railway tariff Guide and Transportation and the tariff Rules. Names of stations or platforms and their change shall be defined by the executive government bodies.

Article 16. Railway Transportation Tariffs

1. Tariffs for the transportation of passengers, cargo, post, baggage and freight within the territory of Georgia shall be approved by the executive government body in charge of transport on the agreement with the Ministry of Economy; Tariffs for international railway transportation (including the CIS) are defined on the basis of international agreements and treaties.

The rates for the use of railway cars (containers) and fees for additional services related to railway transportation but not included in the tariffs shall be defined by the Railways administration.

Information on the tariffs of passenger and cargo transportation, also information on the changes in fee rates shall be publicised through media 10 days before – the introduction of these changes, if not provided otherwise by international agreements.

Article 16, Option 2 for item 1, paragraph 2.

Free (contractual) tariffs shall be defined for the servicing and transportation of passengers, cargo, baggage and freight. These tariffs shall regularly publicised by the Railways.

2. To avoid the creation of monopoly structures and exclude unfair competition, the Ministry of Economy of Georgia, on the request of the executive government body in the field of transport, shall introduce sample or regulatory tariffs for railway transportation, cargo escort and security charges and additional services.

3. When setting passenger and cargo transportation tariffs at levels where the Railway expenditure is not covered by incomes, the difference between the tariffs based on the estimated expenditure and set tariffs shall be paid to the Railways from the relevant budget.

4. The cost of works and services carried out by the Railways on the request of consignors, consignees and passengers not contained in Tariff Guides, also the cost of works carried out by consignors and consignees on the request of the Railways contained in the Tariff Guide, is reimbursed upon agreement of the parties.

Article 17. Principles of Cargo Transportation through the Railways

1. Cargo shall be transported on the basis of contracts.

2. Conditions for the railway transportation of cargo, also responsibility of the parties not defined in this Code, other laws or subordinate rules, shall be defined upon agreement of the parties.

Article 18. Cargo Transportation Contract: Bill of Lading

1. Under the Bill of Lading being the main document certifying cargo transportation, the forwarder shall be liable for the transportation of consignor's cargo to the point of destination and hand it over to consignee. The consignor shall be liable to pay the charge prescribed for cargo transportation.

2. The Bill of Lading shall be signed by the consignor and addressed to the consignee. It shall be handed over to the consignee in the station of destination together with the cargo.

The date-stamp pertaining to the station and indicating the date of receipt of cargo for transportation, shall be put on the Bill of Lading.

3. To confirm the receipt of the cargo the station shall give the forwarder a cargo invoice or a copy of the Bill of Lading.

4. The contents and format of the Bill of Lading, also the rule for filling it in shall be defined by the cargo transportation Rules.

5. For each item to be transported the consignor shall submit relevant railway transport Bill of Lading and other documents specified by relevant normative acts. The Bill of Lading and the invoice issued on its basis to the consignor after the receipt of cargo, shall confirm the conclusion of a contract on cargo transportation.

Under the contract the Railways shall be liable for timely and secure transportation of cargo to the railway station of destination, also meeting cargo transportation conditions and discharge of cargo to the consignee. The consignor shall be liable for covering cargo transportation costs.

The executive government body in charge of Railways shall elaborate and approve documentation for cargo transportation by the railways for general use to be published in the Rules for Railway Transportation and Tariffs. To confirm the receipt of the cargo to be transported, the Railways shall be liable for putting a date stamp in the railways Bill of Lading.

An invoice on the receipt of cargo shall be provided to the consignor after the relevant box of the Railway Book ship is signed.

Upon payment of charges the Railways shall provide the railways Bill of Lading and application forms to consignors and consignees, also copies of documents on actual expenditures, requested by consignors and consignees including registration cards, railway car discharge documents and letters of acceptance.

6. The consignor shall pecuniary responsibility stipulated in this code for the truthfulness of information recorded in the railways Bill of Lading by the consignor or on his behalf, also for the consequences resulting from unreliable, inaccurate or incomplete information recorded in the Bill of Lading by the consignor.

The Railways shall carry out random checks to examine the conformity of the volume of cargo and other parameters contained in the railway Bill of Lading with the information in the corresponding Bills of Lading filled in by the consignor.

For the provision of unreliable, inaccurate and incomplete information on the cargo requiring special security measures, also for sending forbidden cargo or incorrect indication of features of the cargo, the consignor shall bear pecuniary responsibility under Article 55 of this Code.

Article 19. Contracts on Passenger and Cargo Transportation by Railways

If they so require, the Railways and the consignor may conclude a long-term contract on cargo transportation. The contract will contain the information on the volume of transportation facilities, terms and conditions for the assignment of transport facilities, submission of cargo for transportation, also provision of transportation and other conditions not specified in this Code and Transportation Rules.

In conformity with the above contract the Railways shall be liable for receiving cargo in agreed quantities. The consignors shall be liable for presenting cargo for transportation.

The Railways and the client (juridical and natural persons) shall, if they so require, conclude long-term contracts on passenger transportation. The contracts shall specify the rules for passenger transportation, amount of charges and other conditions.

Article 20. Loading and Discharge

1. The cargo shall be loaded and discharged to railway transport warehouses and platforms referred as the areas of general use; also to warehouses and platforms alongside the rails not referred to as the areas of general use and belonging to or leased by consignors, consignees and expedite enterprises.

The areas for general and non-general use shall be equipped with relevant constructions and facilities for servicing/processing railway cars (containers) and shall meet environmental requirement.

The owner of these facilities shall ensure that the requirement of this article are met at the owner's expense; the conformity of specially assigned areas with the requirements shall be ensured through the funding provided by consignors and consignees to whom these areas are assigned.

Areas for general use where separate cargo transportation operations are performed, shall be equipped by special cargo elevators, loading ramps, special platforms, cargo loading platforms, water supply points, disinfecting and washing facilities.

The areas for non-general use shall be equipped with equipment, facilities and construction to ensure timely execution of cargo loading discharge operations, servicing of non-frost-resistant cargo, cleaning (washing) of railway cars and containers after their discharge, also security of rolling stock and containers.

2. Railway cars and motor cars shall be loaded and discharged:

a) In the areas of general use of the Railways equipped with relevant machinery and facilities and upon agreement with the consignor (consignee) except dangerous and perishable cargo; raw organic produce to be transported in over 0,5 tons per unit; outsize, liquid, loose and bulk cargo to be transported in special rolling stock. On the agreement with the consignor or consignee representatives, the Railways shall charge consignors and consignees for load/discharge of cargo. The amount of charge shall be defined by the Tariff Guide.

b) by the consignor and consignee – in the areas of non-general use, also in the areas of general use if loading of cargo is not necessary for the Railways.

3. The loading and discharge of cargo shall be provided by consignors and consignees. The Railways shall also provide loading/discharge operations if it is equipped with relevant facilities and load lifting mechanisms

4. In the circumstances of force majeure (such as fire, snow, wind, flood etc.) and wars, blockade, epidemics and other emergency situations the Head of the Railways Department shall terminate or limit the loading of cargo, baggage and cargo baggage. The Head shall promptly notify, in writing, the executive government body in charge of transport and relevant railways administrations of the measures taken and terms. The executive government body shall promptly notify the Georgian government.

The consignors shall be liable for stopping loading in the forbidden direction, notifying the Head of Station in writing, on the termination and limitation of loading and terminate the submission of cargo for transportation.

The under loading caused by the termination or limitation of loading shall be covered in conformity with cargo rules.

5. Cargo shall be loaded into cargo cars and containers in conformity with technical rules of loading but should not exceed the loading capacity of cars and containers.

The cargo shall be placed and fixed in conformity with the technical requirements for its placement and fixing.

The list of cargo which may be transported by open rolling stock, also the list of cargo which may be transported loose or in bulk, shall be defined by the Department of Railways, and published in the Transportation and Tariff Rules

Facilities for loading, fixing, transportation, packaging and other facilities shall be installed before loading and removed after discharge by consignors, consignees or the Railways depending on which body is engaged in loading and discharge.

These facilities shall be provided by the consignor who records the installed facilities in the railway Bill of Lading to be handed over to the consignee together with the cargo.

6. The Consignor shall be responsible for all consequences resulting from improper loading. Also losses inflicted on the Railways as a result of improper loading shall be compensated by the consignor.

Article 21. Volume of Cargo (Weight)

1. The railway Bill of Lading submitted by the consignor upon submission of cargo, shall indicate the cargo volume determined according to template, standard or by weighing. For packaged weight and weight per unit of cargo the number of places shall also be determined. The volume shall not be determined by calculations and measuring cargo as loading railway cars and containers to their full capacity, may result in exceeding the allowed load capacity of railway cars and containers.

2. The volume of cargo shall be determined by:

- a) the Railways – while loading in the areas of general use;
- b) consignor – while loading in the areas of non-general use.

3. The consignor shall determine the volume of cargo according to template, standard, by calculation, measurement and estimation.

The Railways shall charge a fee for weighing the cargo.

4. The Rules for determining the volume and quantity of cargo and indicating this cargo in the Bill of Lading shall be defined in accordance with cargo transportation Rules

5. For weighing cargo and baggage to be transported:

- the Railways shall have a sufficient number of weighing facilities in the areas for general use;

- the consignors and consignees shall have a sufficient number of weighing facilities in the areas of non-general use and maritime ports.

6. Weighing facilities shall be subject to state inspection and sealing. The Railways on the basis of contracts shall provide technical service of (examination, repairs, checking) weighing facilities pertaining to consignors, consignees and other juridical or natural persons

7. Upon discovering overloading of railway cars by the station (initial or interim) surplus cargo shall be discharged.

The Railways shall promptly request instructions on the discharge of surplus cargo from the consignor or consignee, if this is foreseen in the contract.

8. In addition to the fine, the cost of surplus cargo transportation shall be paid to the consignor and consignee according to the same tariff as for the main cargo transportation.

The cost of discharging and storage of surplus cargo shall be paid according to the same rules.

Article 22. Transportation Planning

1. The Railways shall elaborate and approve annual and quarterly cargo transportation plans.

2. Cargo transportation through the Railways shall be carried out upon submission of application filled according to the standard. The application form, its filling and submission, also its processing and registration shall be defined by the cargo transportation Rules.

3. The consignor shall be liable for submission of an application to the Department of Railways Cargo Agency no later than 10 days before the beginning of transportation; applications on export, international and mixed cargo transportation shall be submitted by the consignor no later than 15 days before the beginning of transportation.

4. To draft a technical plan for cargo, by the Railways, the consignor shall be liable for the submission of the Department of Railways the information on the volume of cargo to be

transported in the following month no later than 10 days before the beginning of the calendar month and no later than 15 days before the beginning of the calendar month for the cargo to be transported through international and mixed railway transportation.

5. The transportation of cargo consigned for eliminating the consequences of emergency situations shall be transported upon its submission to the Railways.

6. The application for cargo transportation shall be submitted to the Department of Railways in 3 copies. The application shall indicate the volume of cargo in accordance with the established nomenclature by railway cars and tonnage, also the type of cargo, railway (country) of destination and dates of loading; the application for local transportation shall contain the type of cargo, station of destination and dates of loading.

One copy of the application shall be sent to the consignor, another copy – to the Head of Railway Station.

7. The Department of Railways shall consider the submitted application within 10 days, notify the consignor on its receipt and return it to the consignor with justification for refusal.

8. If the consignor's application contains changes made by the consignor regarding the redistribution of cargo in international as well as local transportation (changes in railways and stations of destination) when transportation under general application has been completed, the consignor shall be paid fees according to the numbers of changed railway cars (containers) according to the following rates:

- 0,03 minimum remuneration per ton of cargo to be transported in cars and in tons;
- two minimum remuneration for cargo to be transported in railway cars (regardless of their types and number of pivots);
- 0,1 minimum remuneration per container the volume (gross) of which does not exceed 5 tons;
- 0,3 minimum remuneration per container the volume (gross) of which is from 5 to 10 (inclusive) tons;
- one minimum remuneration for cargo to be transported in containers the volume of which is 10 tons (gross) per container.

9. No later than 3 days before the start of cargo transportation under the application the Head of Station together with the consignor shall confirm the required number cars and containers according to dates, types of cargo and railways of destination and record this information in the registration card to be signed by the Head of Station and consignor upon the conclusion of accounting period of 24 hours.

10. On the request if the consignor the Railways administration shall be liable for:

allowing, in special cases, inter-station cargo transportation (within one Railway station) upon payment of the prescribed charge.

Such transportation shall be recorded in the application and included in the volume of transported cargo.

- substituting closed transportation facility with an open one, if the transportation of such cargo is allowed by the cargo Transportation Rules; also substituting one type of rolling stock with another;

- substituting the railways (countries) of destination and railway stations of destination indicated in the application.

Article 23. Rules for the Provision of Transportation

1. Cargo transportation shall be provided by block trains, railway cars, low-tonnage, container and small consignments. The conditions for the transportation of the above consignments as well as domestic items shall be determined by the cargo transportation Rules

2. Cargo transportation is provided at cargo speed or high speed.

The criteria for the determination of cargo speed and railway destinations, in which cargo is transported at high speed, shall be defined by the Department of Railways. The list of these destinations shall be published in the Transportation of Tariff Rules

The speed of transportation shall be chosen by the consignee and recorded in the Bill on Lading.

If the transportation of cargo is allowed only at a certain speed the consignor shall be liable for indicating this speed in the Bill of Lading.

The Head of the Department of Railways shall have the right to establish stretches for high speed cargo within national transportation.

3. Cargo transportation on narrow-gage railroad, also on railroads with different width, shall be provided in conformity with railway cargo transportation Rules.

Article 24. Cargo the Value of Which is Disclosed

1. Consignors may present the cargo the value of which is disclosed. The disclosure of value of precious metals (gems) and jewellery, pieces of art, crafts, antiques (including carpets), testing machinery, equipment and tools, video and audio equipment, computer and copying equipment, also domestic items (transported without being accompanied by the consignor's escort) shall be mandatory.

Payments defined in the Tariff Guides shall be charged for the disclosure of cargo value.

2. In conformity with the cargo transportation rules, any cargo may be subject to the obligation ??????

In such cases the payment of charges shall be made upon agreement of the sides.

Article 25. Preparation of Cargo for Transportation

1. The consignor shall be liable for the preparation of cargo for transportation, ensuring the safety, protection of cargo and rolling stock (containers) and optimum use of their load capacity and scope.

The requirements for railway cargo packaging and quality of production shall comply with state standards and technical conditions of production approved by relevant bodies.

The quality of perishable cargo to be transported also its packaging shall comply with production standards and technical conditions indicated by the consignor in the certificate of quality, and allow for the preservation of cargo within the period of transportation.

2. The consignors and consignees, sending and receiving dangerously explosive, inflammable, radioactive, poisonous and other dangerous cargo shall be liable, similarly to the Railways, for ensuring its safety, having facilities and mobile units for dealing with the aftermath of accidents and emergency situations, ensuring that these units and consignor/consignee experts are promptly sent to the place of accident.

3. The consignor shall bear pecuniary responsibility losses, environmental pollution, poisoning and hindering railway traffic resulting from an accident caused by the consignor.

Costs related to eliminating the aftermath of accidents shall be covered by the consignor.

The Railways shall bear similar responsibility if it causes the accident.

When causing an accident in the course of transportation, the consignor, upon notification by the recipient railways, shall be liable for immediate sending of the mobile unit or its representatives to the place of the accident.

Article 26. Assigning of Transportation Facilities and Submission of Cargo for Transportation

1. Upon receipt of an application the Railways under the contracts for organising transportation or other contracts shall be liable for assigning, within the terms stipulated in the contract, railway cars and containers which are proper, cleaned from waste and cargo garbage, and if needed, disinfected and washed.

Assigning unclean transportation facilities for loading shall be allowed upon agreement with the consignor. In such cases the transportation facility shall be prepared by the consignors, provided the Railways reimburses the costs related to this activity. On agreement of the parties the consignor shall be given the necessary time for cleaning the cars and containers.

The station shall be liable for notifying the consignor of the time for assigning railway cars and containers no later than 2 hours before their assigning to the consignor.

2. The railway tanks and bunkers of the Railways shall be prepared for liquid cargo by the Railways or the consignor at the expense of the Railways, upon agreement between the parties.

The specialised railway tanks not belonging to the Railway Transport or are let by the Railway Transport, shall be prepared for loading by the consignor.

Before loading cargo into tanks the consignor examines the hermetic nature of the tank, the state of its liquid discharge facility, the condition of its hardware and discharge facilities.

3. The commercial suitability of railway cars and containers (the unpleasant smell and other unfavourable factors affecting the process of loading and the state of cargo while transportation; also the characteristics of inner constructions of container hoods and condition of cargo beds) for specific cargo shall be determined;

for railway cars – by consignors if loaded by them and by the Railways if loading is provided by the Railways.

for containers – by the consignor.

4. The consignor shall have the right to refuse unsuitable cargo transportation facilities; the Railways shall be liable for supplying the consignor with suitable railway cars (containers) for cargo transportation.

5. The Railways shall determine the technical suitability of loaded railway cars used for double operations and provided for loading specific cargo.

Article 27. Sealing of Loaded Railway Cars and Containers

•1. Railway Cars and Containers shall be sealed:

•using the Railways seals if the cargo is loaded by the railways; with the seals of the consignor (port) if the cargo is loaded by the consignor (port).

•closed carriages and containers transporting private cargo pertaining to natural persons shall be sealed using the seal of the Railways or the transporting organisation, at the discretion and expense of the consignor.

2. This list of cargo allowed to be transported by cars and containers without seals, also rules for sealing railway cars and containers and putting locking facilities shall be defined by cargo transportation Rules.

3. After opening railway cars (containers) for customs inspection, the new seals and locking facilities shall be put by customs bodies.

4. Seals, sealing materials, locking facilities, unlocking facilities screw-fasteners and sealing wires shall be supplied to the consignors and consignees by the Railways upon the payment of charge.

Article 28. Rules of Payment

The cost of cargo transportation shall be covered, including the shortest distance to the station of destination; also in cases when this distance is increased due to reasons caused by the Railways. The rules for determining this distance shall be defined in the Tariff Guide.

The cost of cargo transportation and other charges shall be paid by the consignor prior to sending cargo from the station, if this Code or the contract does not provide otherwise. The Railways may hold up cargo transportation until the above charges are paid.

The supply of railway cars (containers) for further loading shall be discontinued until the change for previous transportation and other charges are paid.

Upon agreement with the consignor and consignee, the Railways administration shall have the right to decide on the amount of transportation fee and other Railway charges.

Guarantees for the payment of transportation fees and other Railway charges shall also be agreed, including the responsibility for the sides for breaching the terms of agreement.

Final payment related to cargo transportation shall be made by the consignor after the cargo arrives in the station of destination.

The transportation fee and other charges shall be paid in cash, bank checks, payment orders accepted by banks and other types of settlements approved by the National Bank of Georgia.

The settlement date for payment of cargo transportation fees and other charges shall be the date of receipt of cargo for transportation;

The settlement date in the station of destination shall be the date of handover of cargo to the consignee recorded in the Bill of Lading. In case of delay of settlement caused by the consignor or consignee, a fine amounting to 0,2 per cent of the amount due shall be paid to the Railways from the date of delay.

The responsibility for the delay of railway cars and containers before the payment of charges to the Railways shall be borne by the consignor liable for the payment of charges for the storage of cargo and use of the railway cars (container).

Article 29. Fees for the Use of Railway Cars and Containers

1. Consignors and consignees shall be liable for the payment of fees for the use of railway cars and containers upon their provision, by the Railways, for loading discharge.

2. Consignors and consignees shall pay to the Railways an hourly fee (for the use of cars and containers) indicated in the Tariff Guide, while using railway cars and containers or while waiting for their supply and if the delay in supply is caused by consignors and consignees themselves.

3. Different rates for the use of railway cars and containers shall be specified on the basis of terms of supplying cars to the railroad for general use and ... types of railway cars and containers and their turnover.

4. If the consignee (consignor) performing, loading – discharge operations on the railways of general use, delays the railway cars (containers), the charges for cars and containers shall be paid under Items 1 and 2 of this Article.

5. For delaying railway cars and containers belonging to or leased from the Railway Transport bodies by consignors and consignees, the latter shall be charge the payment of 50 per cent of the 50 per cent of the fee for the use of railway cars and containers to be paid to the Railways while the railway cars and containers are on the railroad for general use.

6. The fees for the use of refrigerator railway cars or trains shall be determined on the basis of time required for loading and discharge of the end car of such sections and of refrigerator trains.

7. The fee for the use of railway cars indicated in the Tariff Guide shall be reduced by 50 per cent for narrow-gage railroad.

Article 30. The Change of Cargo Destination

1. On the written application of the consignor or consignee and in compliance with cargo transportation Rules, the Railways shall change the address of cargo, i.e. changes the consignee or the station of cargo destination.

The change of address shall be made upon the payment of fees.

2. The body on the application of which the consignor or the station of destination is changed, shall be liable, to the addressee for the results caused by the change and shall be liable for proper settlement between the consignor, the previous addressee and the actual consignee.

3. The change of cargo address of subjected to customs control shall be made on the consent of the relevant customs body.

If cargo transportation poses a threat to the lives and health of people, railway traffic and environmental safety, the cargo destination shall be changed without the consent of the customs body. The railways shall be liable for informing the customs body of the above.

Article 31. Date of Delivery

1. The Railways shall be liable for the delivery of cargo to the place of destination on the agreed dates of delivery. Terms and rules for their calculation are specified by the cargo transportation Rules and existing international agreements. The parties shall have the right to change the date by concluding a new agreement.

2. The date of cargo delivery shall be calculated from 24 hrs of the date of receipt of cargo to be transported. The date of receipt and the date of expiry of delivery term shall be indicated in the documents issued by the sending station to the consignor and certifying the receipt of cargo.

3 Cargo shall be considered to be delivered on time if the railway car (container) loaded with such cargo is delivered to the place of discharge in the station of destination before the expiry of delivery date.

Cargo shall be considered delivered:

- when it is delivered to the station of destination before the expiry of delivery date but its supply to the place of discharge is delayed by the consignee due to occupying discharge area and failure to pay transportation fees and other dues to the Railways

- when cargo (railway cars and containers) delivery to the station of destination is delayed due to occupying railroad (discharge front) by the consignee, also the railroad of the station of destination and the Railway is forced to hold cargo in the adjacent of neighbouring stations.

Cargo shall be considered to be delivered on time where the delay is caused by the consignee.

In all cases of delay of delivery a general report shall be drafted. In case of failure to deliver cargo on time the Railways shall be liable for the payment of fine under Article 53 of this Code.

4. Under cargo transportation Rules the Railways shall be liable for informing the consignee on the arrival of cargo.

Where the Railways fails to Inform the consignee due to reasons caused by the consignee the responsibility for the waiting time of cars and containers and cargo storage shall be borne by the consignee.

Where the Railways fails to inform the consignee on the arrival of cargo, the latter shall not be liable for the delay of cars and containers and shall not be liable for the payment of cargo storage charges until it receives the notification on arrival of cargo.

5. The Railways shall be liable for informing the relevant customs body on the arrival of cargo subjected to customs control.

6. The Railways shall notify the consignee on the arrival of cargo subjected to customs control no later than 2 hours before the time for supplying railway cars (containers) for discharge.

7. On the basis of a contract the Railways may provide preliminary information to the consignee, on the arrival of cargo addressed to the consignee.

Article 32. Issue of Cargo

1. Cargo shall be issued to the consignee mentioned in the Bill of Lading in the station of destination after all the transportation charges are paid to the Railways.

The consignor shall confirm the receipt of cargo by signing the Railway Book.

Where the consignee evades the payment of transportation fee or other due charges to the Railways, the Latter shall have the right to hold the cargo and notify the consignor in writing;

the consignor shall be liable for the disposal of cargo within 4 days from the receipt of notification.

Where the consignee fails to take relevant measures for the payment of transportation fee and other charges and if the consignor fails to dispose cargo, the Railways shall sale the cargo except:

- special cargo (including military) required for the purposes of the state and defence;
- cargo the transportation fees and charges of which are covered in compliance with the requirement of Article 27 of the this Code.

In case of sale of cargo confiscated by customs and other state control bodies; also in case of sale of cargo which was refused by the consignee in the name of the state (consignor).

The above bodies pay the railways the transportation fees and other charges from the income resulting from the sale cargo of this

2 If the consignee receives cargo not foreseen in the contract, also cargo the name of which does not correspond to the on indicated in the Bill of Lading, the consignee shall be liable for its receipt from the station and shall be responsible for its storage until the matter is clarified with the consignor.

The consignee shall refuse the receipt of cargo if its quality is so changed due to decay or damage that its full or partial use is impossible

If the decay and damage of cargo is caused by the failure of the consignee of forwarder to discharge the railway car on time or failure to remove cargo from the station due to the delay caused by the consignee, the pecuniary responsibility shall be borne by the consignee of forwarder.

3. While receiving cargo in the areas of general use, the consignee shall be liable for the receipt and taking out of cargo from the station.

4. For technological difficulties in railway stations caused by untimely discharge, of cargo and the failure of the consignee to take out cargo from the station, the Railway administration, if the agreement does not provide otherwise shall increase:

- the changes for storage of discharged railway cars (containers) fivefold;
- the fees for the use of cars (containers) twofold. The increase of the above fees and changes shall be introduced in 24 hours after the written notification of the consignee.

Article 33. Rule for the Issue of Cargo

1. The rule for the issue of cargo shall be defined on the basis of cargo transportation Rules.

2. Cargo shall be stored free of charge in the station of destination for 24 hours

This period shall be calculated by the Railways from 24 hrs of the date of discharge from railway (container) facilities supplied by the Railways or from 24 hrs of the date of cargo delivery to the place of discharge in railway (container) facilities belonging to the consignee.

For the storage of cargo during the period longer than above, the consignee (forwarder) or body providing transportation shall pay Railways the charge stipulated in the Tariff Guides.

The rules and terms of cargo storage in the railway station shall be defined in accordance with the Rules of railway cargo transportation.

3. While issuing cargo in the station of destination the railways examines its condition, volume and number of units if:

- cargo is received in unsuitable railway cars (containers), also with damaged seals or seals pertaining to other railway stations (on the way).

- cargo is received has signs of damage or loss while transported in open cars (containers)

- perishable cargo is received at the place of destination later than expected or in refrigerator cars with lower temperature than required.

- cargo addressed to the Railways

- cargo discharged by the Railways in the areas of general use is issued.

In cases indicated in this Article or in situations which may affect packaged or other cargo, the Railways, while issuing cargo shall examine the volume and condition of cargo in damaged containers and packages only.

4. While issuing cargo in the stations of destination, the presence of customs seals on railway cars and containers shall give the grounds to the Railways examine the conditions of cargo, its volume and number of places, except for cases indicated in this Article.

5. The volume of cargo while its issue shall be examined similarly to its examination while loading. If the consignee and the station of destination do not have scales for weighing railway cars, loose and bulk cargo having arrived without signs of loss, shall be issued in the station of destination without examining their volume.

The volume of cargo shall be considered acceptable if the difference between the volume determined in the sending station and the volume determined in the receiving station does not exceed the norm of natural loss and the norm indicated on the volume (net) determining facilities.

On the request of the consignee the Railways, on the basis of contract provisions, shall take part in the examination of volume and condition of cargo and number of cargo places.

6. If while examining the volume, condition and number of cargo places, shortage or damage (decay) is determined, or if this is determined by the railway station on the way and is

recording its commercial report of the station of destination shall be liable for the determination of actual amount of shortage and damage and provide the consignee with a commercial report.

If need be the Railways, on its initiative on the consignees request, shall involve experts and relevant specialists.

Article 34. The Obligations of Consignors and Consignees after Discharge

1. After discharge, the railway cars (containers) shall be cleaned from inside as well as outside; fastening facilities shall be removed also fastening facilities permanently fixed to cars (containers) , including turn-stiles shall be put in proper order.

Doors and hatches shall be locked:

- by the Railways if the discharge is carried out using the facilities of the Railways
- by the consignee (forwarder) if the discharge is carried out using the consignee's facilities.

2. The cleaning washing and if required, disinfecting the remains of animal, poultry, raw organic produce and perishable cargo shall be carried out using the facilities of the Railways, at the expense of the consignee. The main requirements and criteria for cleaning the railway cars (containers) are defined by the Rules of railway cargo transportation.

3. After all decayed and dirty cargo has been discharged the railway cars are washed by consignees. The number of cars/containers to be washed is determined under the Rules for railway cargo transportation.

If consignees cannot wash railway cars, they shall be washed by the Railways, on the basis of a contract.

For the breach of provisions of this Article the Railways shall have the right not to accept railway carriages (container) after discharge until these conditions are met.

In such cases the consignee shall be liable for the payment of fees for the whole period of their use and holding up.

Article 35. Impossibility of Cargo Delivery to the Place of Destination

Where due to force majeure, also natural calamities (fire, snow, snowdrift, flood etc.) and military activities, blockade, epidemics and other emergency situations, further transportation of cargo, baggage and cargo baggage is burdened and the Railways fails to deliver and issue cargo to the consignee, also if the term for storage of cargo, baggage and freight expires due to the above reasons the Railways shall apply to the consignor and consignee for instructions for further disposal of cargo.

Where the consignor and consignee fail to decide on the disposal of cargo, baggage and freight in 4 days after the request from the Railways, the latter shall return cargo, baggage and

freight to the consignor, or sale the cargo, baggage and freight in conformity with reasons for non-return stipulated in this Article.

2. Where the consignor breaches the requirements for export cargo resulting in the detention of such loaded railway carriages and containers by the customs or other bodies responsible for state control, and impossibility to delivery of cars and containers to be transported by maritime transport or foreign railways, the consignor shall pay the Railways a fine for the delay of cars and containers totalling 45 and 15 of minimum remuneration.

If within 10 days due to the above reasons no measures concerning the cargo delayed due are taken by the consigner cargo delayed.

If within 10 days the consigner fails to take measures concerning cargo delayed due to above reasons, also if within 4 says after the receipt of notification on the detention of perishable cargo no measures are taken, the Railways shall return cargo to the consigner at the latter's expense or sale it, if the cargo transportation contract does not provide otherwise. Consignee responsive for holding railway cars (containers) in the station longer than agreed, shall bear pecuniary responsibility under Article 56 of this Code.

3. Decisions on the sale and request for insuring cargo shall be made by the Head of administration of the Railways. In cases covered by item 1 of this Code, cargo, baggage and freight shall be sold on the decision of the executive body in charge of transport.

In cases provided by this Code cargo, baggage and freight shall be sold by the Railways on the basis of purchase-sale agreement and at the price confirmed by the document of settlement or by the relevant agreement, if such document does not exist; or shall be sold at the price which is normally paid for such items purchased in similar circumstances

The rules for registration and payment of cost for the cargo to be sold shall be defined by the Executive body in charge of transport.

4. Income generated from the sale of cargo, baggage and freight minus railway charges and expenditure related to the sale of cargo, baggage and freight, except for cases provided in Articles 47 and 52 of this Code, shall be subject to transfer to the consignee mentioned in the transportation documentation in cases the latter has paid (confirmed by relevant documents) the cost of cargo, baggage and freight, in all other cases the income shall be transelfed to the consigner.

If due to reasons beyond the responsibility of the Railways it is not possible to transfer the above funds to the consigner (consignee) these funds are subject to transfer to the State budget after the tern of statement of claim expires.

The amount generated from the sale of cargo, baggage and freight by the Railways, not backed up by documentation, shall be transferred on the deposit of the Department of Railways to cover the cost paid by the Railways for cargo, baggage and freight that not reached the place of destination.

Part V

Access Railroad

Article 36. Access Railroad

Access railroads serve the needs of separate enterprises and organisations, are linked to the general railway network through a continuous rail and belong to:

- a) consigners, consignees and other industrial entities,
- b) the Railways

Access railroad shall be linked to the Georgian railways network on the permission of the Railways authorities, after this is agreed with local governance bodies.

2. The building and reconstruction of access railroads, loading, discharge and cleaning facilities shall be carried out on the agreement with the railways and if need he, with the local governance bodies.

The construction and condition of access railroad, railroad facilities and technical buildings shall comply with construction norms and rules and shall ensure that the transit of railway cars through the railroad of general use carried out in full conformity with technical norms of load capacity; the condition of access railroad while servicing railway locomotive shall ensure the transit of locomotives assigned for this purpose by the Railways.

Access railroads of organisations not belonging to the Railways shall be given to the Railways also for technical maintenance on the basis of a contract.

3. Opening of a newly constructed access railroad for permanent exploitation and supply of rolling stock for such railroad shall be permitted only after the Commission comprising a representative of the Railways approves putting it to service and the Railways on the agreement with the owner of the given railroad, defines the Rules of its maintenance.

Every access railroad shall have a technical passport, sketches of constructions, plan and a longitudinal section.

4. Access railroads, their constructions and facilities shall ensure regular loading – discharge of cargo, shunting depending on the volume of transportation, also effective use of rolling stock.

Access railroads under construction shall be linked to the existing access railroads:

– on the permission of the Railways if the access railroad belongs to the latter.

– on the permission of organisations or natural persons to whom/which the access railroad belongs; the Railways shall be notified of this in writing.

Article 37. Exportation of Access Railroad

1. The relations between consigners and consignees having the access railroad shall be regulated on the basis of the agreement on the exploitation of access railroad the form and contents of which shall be determined by the Railways administration.

2. The rules for transit of rolling stock not belonging to the Railways shall be specified by the Railways administration.

3. Personnel whose activities are related to the transit and shunt of trains on the railroads of general use, shall be examined to see their knowledge of rules for technical exploitation of railways, movement of trains and security alarm system.

Personnel responsible for loading, fixing and discharge of cargo shall be tested in the knowledge of technical conditions of placement and fixing of cargo in the rolling stock. The rules for examining the knowledge of personnel shall be determined by the executive body in charge of transport.

4. The relevant representative of the Railway administration with the participation of the owners of the access railroad, consigners and consignees, shall examine the observance of traffic security, rolling stock safety and condition of railway facilities on the access railroad.

In case of discovering imperfections on the access railroad, which pose a threat to railway traffic and safety of rolling stock, the Commission (with the participation of access railroad) shall draft a report. On the basis of the report the Head of railway station and traffic security inspector shall forbid the supply of rolling stock to the railroad (railway stretches) indicated in this report.

The pecuniary responsibility for the failure to comply with the requirements related to the delay of railway cars, their supply, cargo safety fulfilment of application for cargo transportation shall be borne by the owner of closed access railroad or its stretch.

5. The supply and shunt of railway cars to the access railroad belonging to consigners (consignees) shall be provided by the consigner (consignee) if the latter owns locomotives.

If the consigner (consignee) does not own a locomotive, the supply of railway cars and shunt shall be provided by the locomotive of the Railways on the payment of fees specified by the agreement.

6. The relations of the Railways with organisations, natural persons, enterprises having warehouses and cargo platforms alongside access railroad belonging to the Railways shall be regulated on the basis of the agreement on the supply of railway cars. Its form and contents shall be defined by the Railways administration. In such cases the supply of railway cars and shunt shall be provided by the locomotive belonging to the Railways on the payment of charges specified by the agreement.

Cleaning access railroad from litter and snow, and its illumination within the territory of enterprises shall be provided at their expenses.

The agreement on the exploitation of access road and supply of railway cars shall be elaborated to take into account the operating technology of the railway station and access road linked to it. The agreement specifies the rules for the supply of railway cars, and terms of their turnover.

7. The rules for servicing consigners (consignees) having the second consigner (consignee) or sub-client within one access railroad, also have their warehouses and railroads linked to them, shall be provided by the agreement between the sub-client and consigner (consignee) owning the access railroad and the locomotive providing services on this road.

8. While providing services on the access railroad using its own locomotive, an agreement between the Railways and the sub-client shall be concluded on the supply of railway cars. The form and contents of a typical agreement shall be defined by the Railways. The sub-client shall pay due charges for services for the supply of railway cars and shunt.

9. The organisation owning access road, consigner, consignee and sub-client shall bear pecuniary responsibility for the damage of rolling stock and failure to ensure its safety on the access railroad.

The owner of access road and its sub-client shall have equal obligations and responsibilities for cargo transportation.

10. On the agreement of consigner (consignee) and the owner of the access road, the Railways shall, according to the agreement, use their access railroad for shunt and temporary parking of railway cars.

For unauthorised use of access railroad owned by the Railways and situated on the territory of the consigner (consignee) the Railways shall bear pecuniary responsibility for unauthorised use of railway cars (containers) under Article 54 of this Code.

11. The size of land plots and occupied by juridical and natural persons on the territory under access railroad situated in the right of way; also charges for their maintenance shall be provided in the agreement on access road exploitation and railway car supplies. In conformity with the agreement, the cost of maintenance shall be reimbursed to the railways.

12. The protection of loaded and empty railway cars delivered by the Railways to the access railroad shall be ensured by the recipient and at his expense.

13. The registration of railway cars on the access railroad shall be carried out in the normal way.

14. The time for loading and discharge of cars during the provision of service on the access railroad by the locomotive of the Railways, shall be calculated from the moment of

actual supply of railway cars to the place of loading and discharge until the railway station receives a notification from consigners (consignees) on their readiness.

The time of presence of railway cars on access railroad not serviced by the locomotive of the Railway shall be calculated from the moment of transit of railway cars to easier ?? rails until they return back to these rails.

The conditions, places and rules for the transit of railway cars (containers) to and from the access railroad and ease rail shall be defined by the agreement.

The consigner, consignee and the Railways shall not use for the transportation and storage of their cargo without authorisation if this is not provided by the agreement. The side breaching this requirement shall bear pecuniary responsibility under Article 54 of this agreement.

15. Agreements on the exploitation of access railroad and supply of cars shall be concluded for 5 years.

This agreement shall be signed by the Head of the Railways administration or, on his instruction, the Head of railway Station and the owner of the railroad.

16. If the equipment of work technology of railway station or access railroad is changed the agreements on the exploitation and supply of railway cars shall be reviewed before the expiry of their term.

Disputes related to the agreement shall be considered and settled by the Railways administration and the owner of access railroad.

If the sides fail to agree disputes shall be considered according to the established rules provided by the Georgian legislation. Disputes related to railway traffic security, safety of rolling stock and containers shall be decided by the Head of the Railways administration.

Until disputes are settled, all relations between the sides are regulated by the previous agreement.

PART VI DIRECT MULTIMODAL TRANSPORT COMMUNICATIONS

Article 38. Direct multimodal transport communications

1. Cargo transportation by railways may be provided through interaction with sea, river, air and motor transport creating a system of direct multimodal transport communication.

2. Cargo transportation within direct multimodal transport communication is provided on the basis of a unified transport Bill of Lading valid throughout the entire cargo transportation route.

3. Rails situated in sea ports and used for cargo transportation within ports and direct multimodal railway-maritime transport, shall belong to the Railways.

The building and reconstruction of raihsde houses in ports receiving and sending cargo to be transported through direct multimodal railway-maritime transport communication shall be carried out by ports on the basis of plans agreed with the railways and other interested organizations.

The building, reconstruction and development of ports and seaside railway sites (stations) shall be carried out in combination, taking into account the volume of cargo to be processed.

Article 39. Rules for the provision of direct multimodal transportation

1. The rules for organizing cargo transportation within direct multimodal transport communication system shall be determined on the basis of agreements between relevant transport organizations in charge of different types of transport concluded in accordance with the Georgian legislation, also with the articles of this Part on "Direct multimodal Transport Communications."

The Rules for cargo transportation within direct multimodal transport shall be elaborated and approved by the executive body in charge of transport, taking account international agreements in force after they are registered in the Ministry of Justice and published.

Parts of this Code not foreseen by this Article shall use the norms of such codes, regulations, Tariff Guides and Rules which regulate cargo transportation through relevant type of transport.

2. The participants in direct multimodal transportation shall be

- railway stations, motor transport for cargo transportation operations
- sea ports, motor transport stations and airports recorded in the list approved by the executive body in charge of transport

3. Liquid cargo in tank cars and timber floats shall not be accepted for direct multimodal transportation.

The list of perishable and dangerous cargo permitted in direct multimodal transportation also lists of cargo to be escorted by consignor/consignee representatives shall be determined in conformity with the Rules for direct multimodal transportation

4. For cargo sealed in railway cars the compatibility of names and integrity of seals in point of loading with data indicated in the transportation documents shall be examined

Cargo transported by railway-maritime direct multimodal shall be weighed in the places of transshipment on the request of the side responsible for transshipping cargo from one type of cargo to another

- on railway scales - by the Railways
- on cargo scales - by the port.

The cargo volume shall be examined by the side responsible for loading and discharge of railway cars in the points of transshipment, in the presence of representatives of the next transport to be used.

Packaged or separate cargo that is received in transshipment points in closed or open rolling stock and undamaged packages, also if the consignor indicates the volume per cargo unit, the transshipment of units shall be carried out without weighing this cargo, by counting units.

The same rule shall apply for the issue of cargo at the place of destination.

Cargo transportation in containers shall be issued after the condition of container and integrity of seals shall be examined.

5. While using containers in direct and mixed transportation the rules and conditions for assigning and use of containers shall be established on the basis of agreements concluded with relevant transportation organizations.

Article 40. Rules for the handover of cargo and preparation of means of transport in the points of transshipment

1. Where transported by direct multimodal transport cargo shall be loaded by:
 - the port - transshipments from ships and port warehouses to railway cars and from railway cars to ships and port warehouses.
 - the railways - transshipments from railway cars and railway station warehouses to motor cars and from motor cars to railway station warehouses

Ports shall ensure that railway cars and ships are equipped to transport cargo in several tiers;
placement and fastening of heavy cargo and cargo of excessive length and volume shall be carried out by ports.

The supply of fastening and fixing facilities, packaging materials and other materials shall be provided by the consignor.

The cost of works (including expenditure on materials) shall be indicated in the Bill of Lading and paid by the consignee.

Article 41. Joint Framework Agreement

1. The conditions for the operations of railway stations, ports and other transport organizations participating in direct multimodal transportation shall be determined by joint framework agreement concluded for 5 years on the basis of rules of direct multimodal transportation. In case of change of equipment or operations technology, the framework agreement shall be reviewed on the request of one of the sides, before the expiry of its term.

The rules of elaboration and conclusion of joint framework agreement shall be established under the rules of single and direct transportation.

2. Disputes based on joint framework agreement shall be considered in conformity with the Georgian legislation.

Article 42. Terms of delivery and settlements. Responsibility of the sides

1. The terms for cargo delivery through direct multimodal transportation shall be defined on the basis of terms of cargo delivery by railways and other types of transport. Terms shall be defined on the basis of existing rules for determining terms for cargo delivery by specific type of transport.

The pecuniary responsibility for breaching the total term of cargo delivery shall be borne by the side responsible for the breach.

2. The payment of charges for railways-maritime cargo transportation shall be made in

- sending station - by consignor and according to the distance of transportation by railways
- port of transshipment or destination - by consignor or consignee according to the distance of transportation by sea

3. The payment of charges for railways-maritime cargo transportation shall be made in:

- sending station - by the consignor according to the distance of transportation by sea
- station of transshipment by the consignor or consignee according to the distance of transportation by railways

Cargo transportation charge may be paid by the forwarder acting on behalf of consignor or consignee.

Fees for the supply of railway cars in ports by locomotives shall be paid on the basis of provisions of Tariff Guide.

4. Registration of fulfillment of established norms for cargo transshipment from railways to maritime transport and vice versa shall be made through registration cards filled in according to modes of transport

5. For the failure to fulfill the norms of direct multimodal railways-maritime transportation, the pecuniary responsibility shall be borne by the Railways and the port under Article 51 of this Code. The failure to fulfill the application on cargo transpiration shall be accounted for under the same Article.

6. The Railways and ports shall be exempt from pecuniary responsibility for the failure to comply with transportation norms:

- when transshipment operations are forbidden due to force majeure conditions such as military actions, blockade, epidemics or other emergency situations hindering transshipment operations; also while accidents in transport organizations;
- when discontinuing or limiting cargo transportation according to established rules;
- when in accordance with monthly figures transshipment norms are met

7. Where railway cars (containers) supplied to the port for unloading, discharge or transshipment are delayed at the fault of the port, also where demurrage railway cars (containers) waiting to be supplied at seaside railway stations or access rails (in cases when the station is unable to receive them) the port shall pay to the Railways the charges for the use of railway cars (containers) and fees for cargo storage.

8. Where ships in ports are excessively delayed due to the failure to supply railway cars, the Railways shall bear pecuniary responsibility under Article 56 of this Code, where ships are discharged before due time, the bonus shall be shared by the port and the Railways.

9. Where at the points of transshipping the dispatch of the railway cars (containers) is delayed at the fault of the consignor, the latter shall pay a fine in the amount determined in Article 56 of this Code.

Where at the border guards and customs checkpoints the dispatch of the railway cars and containers loaded with export and import cargoes is delayed at the fault of the customs and border guards, these latter shall pay a fine in the amount determined in Article 58.

10. Where the cargo is not placed in safe conditions, the liability for damages at the points of transshipping shall lie with the transferor—before the transfer of cargo and the transferee—after the transfer of cargo.

At seaports the safety of both loaded and empty railway cars shall be ensured by the seaport administration.

11. At the points of transshipping the seals and locks shall be removed from the transshipping railway cars, or at the points of transshipping the seals and locks shall be placed on railway cars loaded with direct multimodal transportation cargoes according to the multimodal transportation procedures.

12. Where the safety of cargo designated for direct multimodal traffic is not ensured, the railway and other carriers shall be liable to damages according to regulations and codes of appropriate transport carriers.

Where the cargo is lost, destroyed, damaged or spoiled and the guilt of railway, sea carriers, or seaport is established, the liability for damages shall lie with railway, sea carrier or seaport accordingly.

PART VII.

TRANSPORTATION OF PASSENGERS, BAGGAGE, FREIGHT AND MAIL

Article 43. Principles of transporting passengers, baggage and freight

1. The Railways shall ensure that the passengers, baggage and freight are delivered to the places of destination in timely manner, the safety of passengers, baggage and freight is guaranteed and the passengers are provided with high-quality services in railway stations and trains.

The railway shall ensure that the passenger train traffic corresponds to the schedule. The passenger carriages, railway stations and other facilities shall be in good technical conditions and correspond to the requirements of construction and sanitary standards, rules and regulations.

2. Passenger trains shall fall into the following categories:

- depending on the distance—long-distance, local and suburban trains.
- depending on the speed—express and passenger trains;

Criteria for the classification of trains into categories depending on their speed and distance of travel shall be determined by an executive authority in charge of transport.

3. Railway stations which are opened for providing passenger, baggage or freight transportation services, shall meet such requirements which can ensure the providing of these services

In the railway stations there shall be constructed platforms, store-rooms, pavilions, and— for pedestrians—tunnels and bridges.

The railway stations shall contain booking offices, baggage check-in points, carry-on-baggage check-rooms, waiting halls, inquiry offices, transit passenger rest-rooms, mother and child rooms, restaurants and cafes, entertainment and sanitary/hygiene service rooms which shall correspond to established technical/design standards.

The railway station squares which do not belong to the Railways shall be comfortable and shall fit the requirements of pedestrians and the safe and convenient traffic of the public transport.

The local self-governments shall be responsible for the development of railway station squares.

The construction, maintenance and rehabilitation of railway squares shall be implemented by the budgets of the Railways and local self-governments.

4. The passengers shall be provided with timely and reliable information concerning the train departure and arrival times, locations of booking-offices, check-room working hours, locations of warehouses, benefits for certain categories of passengers, as well as the procedures of transportation of passengers, personal belongings of individuals, baggage, and freight.

Article 44. Passenger and cargo transportation contract

1. By entering into a passenger transportation contract the railway commits itself to carrying passengers to the place of destination and ensuring room according to the passenger's ticket, as well as to carrying the passenger's baggage or the forwarder's freight; on the other hand, the passenger commits himself or herself to paying for travel cost and—where he or she checks baggage—the baggage transportation cost; the forwarders commit themselves to paying for the freight transportation costs. All transportation costs shall be paid in accordance with established tariffs.

2. The fact of making a passenger transportation contract shall be evidenced by a travel document (ticket). The check of baggage or freight by a passenger or forwarder shall be evidenced by baggage or freight bills respectively.

3. The passengers are required to carry with themselves travel documents (tickets) and the Railways are required to sell tickets at established tariffs as long as the seat is available, provided that certain categories of the citizens of Georgia may enjoy benefits established by law.

Where the benefits are provided to the certain categories of the citizens of Georgia in regard to travel costs, the compensation for such benefits shall be covered by the State budget funds or those of appropriate entity of Georgia.

4. Lost or damaged travel documents (tickets) of the passengers may not be changed, except for cases specified in passenger, baggage and freight transportation regulations, and the amounts paid for such documents shall not be given back.

5. Railway station check-rooms shall accept and keep carry-on-baggage and baggage whether or not the persons who carry them have got travel documents (tickets), except such items and materials whose transportation is prohibited by passenger, baggage and freight transportation regulations; the passengers are required to pay fees for the services provided by the check-rooms.

Transit passengers may enjoy the preferential right in terms of the use of check-rooms.

Article 45. Rights and duties of passengers

1. During the travel by long-distance and local trains a passenger shall have the right:

- to buy a travel document (ticket) to any train and carriage, to the station of destination of his or her choice, provided this station is open for train traffic;
- to carry at no charge one child under the age of 5 years, provided the child should not occupy a separate place, and children from 5 to 10 years according to established tariffs;
- to carry a carry-on-baggage excluding small items, whose quantity and weight shall be specified in passenger, baggage and freight transportation regulations;
- to check baggage for transportation as required by the travel document and pay for baggage fare according to established tariffs;
- to make a stop in the way and extend the travel document for not more than 10 days;
- where he or she becomes ill in the way, to extend the travel document for the whole period of illness certified by a medical organization; if there is no seat available in his or her train, such a seat shall be reserved for him or her in the next train;
- to travel by a preceding train after checking with the railway booking-office;
- where the train is late, within 3 hours, and where the passenger has been ill or an accident has taken place (provided an evidence is submitted), within 3 days after the pulling out of the train to which the passenger has acquired a travel document (ticket), to extend his or her travel document (ticket) to another train by paying an additional amount for berth, or, where he or she abstains from travel, to recover the cost of travel excluding the cost of berth.

2. Where a passenger turns in an unused travel ticket, he or she shall have the right:

- not later than 15 hours prior to the departure of the train, to recover the ticket cost consisting of both ticket and berth costs;

- where he or she turns in the ticket from 15 to 4 hours prior to the departure of the train, to recover the ticket cost entirely plus 50 per cent of berth cost;

- where he or she turns in the ticket less than 4 hours prior to the departure of the train, to recover only the ticket cost. The cost of berth in such a case will not be given back;

- where he or she, not later than 24 hours prior to the departure of the train, turns in the return travel document (ticket) to the same booking-office where it was bought, to recover both ticket and berth costs; where this happens later than 24 hours, but still prior to the train's departure, he or she may recover the ticket cost excluding the berth cost;

- where the return travel document (ticket) is turned in to a station from which the passenger is going to return, the rule of this article shall be applied.

3. Where a travel document (ticket) is to be turned in at any time prior to the departure of the train, the passenger shall be given back the travel cost:

- in cases of the cancellation of trains, delay of departure, the passenger's illness, or impossibility to provide a seat indicated in the travel document (ticket) and the passenger's refusal to occupy any other seat instead. Where a travel document is returned, no deductions shall be made from the travel cost, provided the passenger is late in the station of train change for the railway's reason.

4. Where a travel is interrupted, a passenger may recover the travel cost for the uncovered distance excluding the cost of berth. The amount shall be given back to the passenger according to the passenger, baggage and freight transportation regulations.

5. Where the travel is interrupted for the reasons which are beyond the control of the Railways, a passenger shall be given back the travel cost for the uncovered distance; where the interruption is caused by the Railways' fault, the passenger shall be given back the whole cost of travel.

6. A passenger shall have the right to occupy an unoccupied seat in a higher class carriage according to the passenger, baggage and freight transportation regulations.

7. Where it is impossible to provide a passenger with a seat indicated in the travel document (ticket), the Railways shall provide such a passenger, if he or she agrees, with a seat in another carriage, including higher class one, without charging a difference.

8. Where a passenger is provided, by his or her consent, with a seat whose cost is less than the cost of the travel document (ticket) bought by this passenger, the difference shall be paid back to the passenger.

9. In the event of the travel by a suburban train, a passenger shall have the right to buy:

- a one-way or round-trip ticket or a multiple-use ticket of an established format;

- to carry at no charge children under the age of 5 years;

- to carry a carry-on-baggage whose size and weight shall be specified in the passenger, baggage and freight transportation regulations.

10. Passengers are required to maintain a public order, comply with the rules of using passenger carriage and railway station spaces, and take care of the railway transport organizations property.

Article 46. Carrying passenger groups

1. At the prior request of organizations, the Railways may sell travel documents (tickets) to passenger groups.

2. Prior requests of organizations for the reservation of travel documents for passenger groups shall be accepted, travel documents shall be handed out and, in the case of refusal to travel, the ticket costs shall be given back according to the passenger, baggage and freight transportation regulations.

3. Where the tickets acquired at the prior request of organizations are turned in to the railway booking-offices not later than 3 days prior to the departure of the train, 50 per cent of the berth cost shall be deducted and where the tickets are turned in less than 3 days prior to the departure of the train, the berth cost shall be deducted in its entirety.

Article 47. Carrying baggage and freight

1. Upon the showing of travel documents (tickets) by the passengers, the Railways are required to accept baggage and depart it by a train of appropriate destination, provided this train contains a baggage van.

2. The passengers may check for transportation declared valuables.

For the check of declared valuables the passengers shall pay fees.

The freight shall be carried according to this Code and the passenger, baggage and freight transportation regulations.

3. For the purposes of transportation there shall be accepted such items which because of their size and qualities may be placed into the cargo truck and which will not cause damage to the baggage of other passengers. Requirements for the baggage weight and packaging shall be specified in the passenger, baggage and freight transportation regulations.

The transportation of dangerous materials specified in the passenger, baggage and freight transportation regulations is prohibited.

4. A delivery period of baggage or freight shall be determined by the travel period of the train by which the baggage or freight is sent to the railway station of destination.

The date of sending the baggage or freight shall be fixed in transportation documents.

Where the baggage or freight should be transshipped on the way, the delivery period of baggage or freight shall be determined by the travel period of the other train which should contain a baggage van. Besides, one day shall be added for the transshipping of baggage and two days for the transshipping of freight.

The station of destination shall fix the date of arrival of baggage or freight in transportation documents.

Where the baggage or freight has not arrived in the railway station of destination 10 days following the expiration of the travel period, it shall be considered lost and its cost shall be paid off.

5. Where the baggage or cargo baggage arrives in the railway station of destination after the expiration of the above mentioned period, the consignee may receive the baggage or freight and refund the Railways the amount which was paid to the consignee for the loss of baggage or freight as provided hereby.

Where within 4 days after the consignee has received a written notice of the arrival of baggage or freight in the railway station of destination, the consignee refuses to receive the baggage or cargo baggage or has not decided what to do with this baggage or freight, the Railways may sell the said baggage or freight according to the rule provided by this Code.

6. In the railway station of destination the baggage shall be handed out to a bearer of baggage bill and a travel document (ticket).

The handing out of baggage shall take place over the whole period during which the railway station is open for the performance of baggage receipt/hand-out operations. The baggage arrived in the railway station of destination shall be kept in the station free of charge during 24 hours after arrival excluding the date of arrival. Where the baggage is not taken away after the expiration of this period, an extra amount shall be paid as determined by the passenger, baggage and freight transportation regulations.

7. Where a baggage is not taken away within 30 days after the date of arrival, or a freight of natural persons is not taken away within 30 days after the giving of written notice of the arrival of baggage-cargo, or a freight of legal persons is not taken away within 10 days after the giving of written notice of the arrival of baggage-cargo, this baggage or baggage-cargo shall be sold according to the hereby specified rule.

Article 48. Carrying mail parcels

1. The Railways shall carry mail parcels on the basis of contracts entered into with the appropriate communications and post companies, according to which the Railways shall receive and deliver the mail to the place of destination in time and without any loss and the communications company shall provide the mail parcels in time, load them into the mail van, pay the delivery costs and receive the mail in the place of destination.

2. The transportation of mail by railway shall be carried out by the mail railway cars included in the train and the route shall be determined by the Ministry of Communications and Post in coordination with the Railways

3. The rules of transportation of mail parcels and inclusion of mail vans into the trains shall be determined by the executive authority in charge of transport in cooperation with the executive authority in charge of the communications.

Article 49. Mail, cable and telephone services provided to passengers

1. The Railways shall lease out appropriate space of the railway stations to mail, cable and telephone communications companies to provide services to the passengers

2. The construction of mail offices and special mail delivery departments out of the railway stations, as well as railway tracks, special lines, tunnels, mail classification areas, platforms and other facilities required for the performance of mail services shall be carried out by the funds of the executive authority in charge of the communications. Construction works shall be carried out by such companies or organizations who have acquired the licenses for the construction of transport facilities. Sites for such constructions shall be allocated in the areas directly adjacent to the railway stations.

PART VIII **LIABILITIES OF RAILWAYS, CONSIGNORS, CONSIGNEES AND PASSENGERS**

Article 50. Liability

The parties shall be liable to penalties provided by this Code and the contract entered into by the parties, unless the provisions of such a contract contravene this Code.

Any contracts entered into by the Railways and consignors, consignees or passengers which may restrict or avoid the liability for damages to be paid by the Railways, consignors, consignees or passengers shall be considered null and void and any notes in the transportation documents which are not provided by this Code or any other regulations of Georgia shall be invalid.

Article 51. Liability of forwarder for the failure to provide means of transportation and liability of consignor for the failure to use such means of transportation

Where the Railways fail to provide railway cars (containers) after the receipt of application for the transportation of cargo, or the consignor fails to bring cargo and use provided railway cars (containers), or the consignor refuses to use such railway cars (containers), they shall be liable to the penalty which shall amount:

- in relation to cargo which shall be measured by the number of railway cars and metric tons, to 0.1 per cent of the minimal salary per ton;
- in relation to cargo which shall be measured by the number of containers, 0.5 per cent of the minimal salary per container with the gross weight up to 5 tons; a full amount of minimal salary per container with the gross weight from 5 to 10 tons; a double minimal salary per container with the gross weight over 10 tons;

- in relation to cargo which shall be measured by the number of railway cars only, except refrigerators and conveyors, irrespective of their types or the number of axles, to five times minimal salary per van.

Where the Railways fail to provide refrigerators or conveyors after the receipt of application for the transportation of cargo, or the consignor fails or refuses to use such refrigerators or conveyors, the Railways or consignor shall be liable to the penalty which shall amount:

- in relation to cargo which shall be measured by the number of railway cars and metric tons, to 0.2 per cent of the minimal salary per ton;
- in relation to cargo which shall be measured by the number of railway cars only, irrespective of their types or the number of axles, to seven times minimal salary per van.

The Railways shall be liable to damages where they fail to provide railway cars (containers) after the receipt of application for the transportation of cargo, except when the failure to provide railway cars (containers) is caused by fault of consignor.

Where the consignor fails to ship to the Railways the cargo which should be transported to the place or station of destination indicated in the application, including the case when the application has completely been satisfied, the consignor shall pay the Railways:

- in relation to cargo which shall be measured by the number of railway cars and metric tons, to 0.04 per cent of the minimal salary per ton,
- in relation to cargo which shall be measured by the number of railway cars only, irrespective of their types or the number of axles, to double times minimal salary per van;
- in relation to cargo which shall be measured by the number of containers, 0.2 per cent of the minimal salary per container with the gross weight up to 5 tons; 0.4 per cent of minimal salary per container with the gross weight from 5 to 10 tons; a full amount of minimal salary per container with the gross weight over 10 tons.

In relation to cargo which shall be measured by the number of railway cars only and shall be carried on the narrow railway track, the failure to perform the cargo transportation application shall be subject to 50 per cent of the penalty specified in this article.

The penalty for the failure to perform the cargo transportation application shall be paid up irrespective of the payment of fees for the use of railway cars (containers).

A consignor shall be exempted from the penalty for the failure to perform the cargo transportation application in the following events:

- force majeure, hostilities;
- interruption or restriction of cargo loading operations as determined in Article 20 of this Code;

- circumstances where the cargo handling operations are prohibited as well as an accident which prevents the consignor from doing business;
- failure to use railway cars (containers) provided for excess cargo without the prior consent of the consignor;
- performance of the cargo transportation application for the cargo, which shall be measured by the number of railway cars and tons.

Where the consignor, due to the compressed loading of cargo, uses less number of railway cars (containers) than is ordered by the application, no penalty shall be imposed for the unused railway cars (containers).

Where the consignor notifies the railway station at least 2 days prior to the loading date that it no longer is willing to use ordered railway cars (containers), the amount of penalty shall be reduced by one-thirds.

The Railways shall be exempted from the penalty for the failure to perform the cargo transportation application in the following events:

- force majeure, hostilities;
- interruption or restriction of cargo loading operations as determined in Article 20 of this Code;
- failure of the Railways to provide railway cars (containers) caused by the failure of the consignor to pay cargo transportation or other charges.

Where the delays in the providing of railway cars (containers) are caused by the loading, discharging, cleaning and washing operations to be performed by the consignors, the Railways shall be exempted from the paying of damages for the number of railway cars (containers) delayed for the above reason.

Article 52. The consignor's liability for the loss, damage, destruction or spoiling of baggage, freight or carry-on-baggage

The Railways shall be liable to damages for the failure to ensure the safety of cargo after they have received the cargo for transportation and have not handed it out to the consignee, unless they can prove that the loss, damage, destruction or spoiling of cargo were caused by the circumstances that were beyond the reasonable control of and could not have been avoided by the Railways, including:

- reasons which are under the control of the consignor or consignee;
- exceptional qualities of cargo which should be transported;
- packaging defects which were not noticed during the external examination of cargo at the moment of its receipt for transportation, or the use of such packaging materials which do

not match the qualities of cargo or existing standards, or the lack of the signs of packaging damage in the way;

- where the dampness of cargo exceeds the established standards.

The Railways shall be exempted from the liability to damages for the loss, damage, destruction or spoiling of cargo, where:

- the cargo has arrived by the railway cars (containers) which are in good condition and are locked and sealed by the consignor, or by open rolling stocks bearing security signs or any other signs certifying that the cargo is secured;
- the cargo was damaged or spoiled for natural reasons where it has been transported in the form of open rolling stocks;
- the cargo was accompanied by a representative of the consignor or consignee;
- the loss of cargo does not exceed the difference between the standard of natural loss and the net weight;
- the loss, damage, destruction or spoiling happened because of incorrect, incomplete or unreliable data or information entered by the consignor into the railway bill.

In the cases specified in this article, the railway shall be held liable to damages for the failure to ensure the safety of cargo, where the plaintiff can prove that the loss, damage, destruction or spoiling of cargo took place by the Railways' fault.

Where the cargo has not been handed out to the consignee within 30 days following the arrival of cargo in the place of destination at the request of the consignee, or within 4 months following the arrival of cargo as a result of direct or mixed traffic, the cargo shall be considered lost. Where the cargo has arrived in the place of destination after the expiration of the above period, the consignee may get the cargo, provided it refunds to the Railways the compensation paid off according to this Code.

Where the consignee refuses to receive the cargo or has failed to present a decision what it is going to do with the cargo within 4 days following the receipt of notice of the arrival of the cargo, the Railways may sell the cargo according to the rule determined by this Code.

The Railways shall pay indemnity for damage caused to the cargo during its transportation in the following amounts:

- where the cargo is lost or destroyed, a full cost of loss or destruction;
- where the cost of cargo has been reduced due to its damage or spoiling, the amount by which the cost was reduced, or where the damage can not be removed, a full cost of cargo;
- where the cargo is declared and afterwards lost, a declared amount of cargo or such part thereof which corresponds to the lost, destroyed, damaged or spoiled cargo.

The cost of cargo shall be determined by its price indicated either in the accounts of the seller or in the contract, or where the seller's accounts or the contract do not specify the price of cargo, by the price which usually is paid for the same cargo under similar circumstances.

In addition to paying damages, as required by this article, the Railways shall refund the cargo transportation cost and other charges paid to the Railways in proportion to the quantity of lost, destroyed, damaged or spoiled cargo, unless such costs and charges are included in the cost of cargo.

The Railways shall be liable to damages for the failure to ensure the safety of baggage after the receipt of such baggage for the transportation and before handing it out to the consignee, unless they can prove that the loss, destruction, damage or spoiling of cargo baggage caused by the circumstances that were beyond the reasonable control of and could not have been avoided by the Railways.

The damage caused to the baggage during its transportation shall be indemnified by the Railways in the following amounts:

- where the baggage is lost or destroyed—a full cost of the lost or destroyed baggage;
- where the baggage is damaged or spoiled—an amount by which the value of baggage was reduced, or, where the damage can not be removed, a full cost of baggage;
- where the baggage has been declared—a full declared cost of baggage

The cost of baggage shall be determined by its price indicated either in the accounts of the seller or in the contract, or where the seller's accounts or the contract do not specify the price of baggage, by the price which usually is paid for the same baggage under similar circumstances.

In addition to paying damages for the loss, destruction, damage or spoiling of baggage, the Railways shall refund to the consignee the baggage transportation cost and other charges which are due to the consignee and which were paid for the transportation of the lost, destroyed, damaged or spoiled baggage.

The Railways shall be liable to damages for the loss, destruction, damage or spoiling of freight to the same extent as they are liable to damages for the loss, destruction, damage or spoiling of baggage under this article.

The safety and integrity of a passenger's carry-on-baggage is the responsibility of the passenger.

Article 53. Liability for delays in delivering cargo to the place of destination

As far as local traffic is concerned, where the Railways fail to deliver cargo or empty railway cars owned or leased by the consignor or consignee to the place of destination in time, the Railways shall pay a fine for each day of delay at the rate of 5 per cent of the transportation price, provided that total amount so paid shall not exceed 30 per cent of the transportation price

As far as international railway traffic is concerned, where the Railways or another party to mixed traffic fail to deliver cargo or empty railway cars owned or leased by the consignor or consignee to the place of destination in time, the Railways or such party shall pay a fine as determined by the agreements on the international railway traffic.

The liability determined in this article shall fall on the Railways, unless they prove that the delays took place as a result of the circumstances, disorders menacing to the lives and health of the people or any other reason beyond the railway's reasonable control, as specified in paragraph 4 of Article 20.

The Railways shall be liable to damages for the delays in the delivery of freight to the same extent as they are liable to damages for the delays in the delivery of baggage under this article.

Article 54. Liability for the misuse of the rolling stock

1. Where the consignor, consignee or other organizations misuse the railway cars and containers of the railway transport organizations, or the Railways misuse the railway cars and containers owned or leased by the consignor, consignee or other organizations, the party who is guilty of such misuse shall pay ten times the amount specified in Article 56 of this Code.

Article 55. Liability for the presenting of controlled or dangerous cargo

Where a consignor has failed to indicate in the railway bill a correct name of materials to be carried, or correct instructions to be taken during the transportation of such materials, or correct qualities of the materials, it shall be liable to penalty amounting to five times the transportation cost and the payment of such a penalty shall not exempt the consignor from the indemnity to be paid to the Railways for the damage caused due to the transportation of such materials.

Article 56. Liability for the demurrage of railway cars and containers

1. Where the consignor or consignee is responsible for the demurrage of a van, as stipulated by articles 35, 42, 56 and 31(3) of this Code, the consignor or consignee shall pay 0.2 per cent of the minimal salary for each hour of delay.

Where the Railways are responsible for the delays in providing railway cars for the loading or discharging operations, or removing railway cars from the places of loading or discharge, provided the delivery or removing of the railway cars is the responsibility of a Railways owned locomotive, and such delays contravene van delivery and removal periods, as determined by the railway track use contract, the Railways shall pay to the consignor or consignee a fine amounting to 0.2 per cent of the minimal salary for each hour of delay of each van. The fine shall be accrued from the moment of delay during the whole period of demurrage.

Where the delay concerns tank-trucks, bunker-railway cars, mineral carriers and other special railway cars, the penalty specified in this article shall be doubled and where it concerns refrigerators and conveyors, the penalty shall be tripled.

The delay for less than 15 minutes shall not be counted, while the delay for the period from 15 minutes to one hour shall be considered the delay for one hour.

2. Where a self-propelled vessel is delayed at berth for a longer time than is provided by a multi-partite agreement and such a delay is caused by the failure of the Railways to provide an agreed number of railway cars, the Railways shall pay 0.06 per cent of the minimal salary for each ton of cargo not shipped and each day of delay.

Where the delay concerns a non-self-propelled vessel, the amount of penalty shall be reduced twice as much, and where a vessel-refrigerator is concerned, the penalty shall be doubled.

3. Where in the cases determined by articles 35, 42 and 54 of this Code a consignor or consignee is at fault for the delay of a multi-purpose container, it shall be liable to penalty in the following amounts:

- for the containers with a gross weight less than 5 tons—0.01 per cent of the minimal salary;
- for the containers with a gross weight from 5 to 10 tons—0.04 per cent of the minimal salary;
- for the containers with a gross weight over 10 tons—0.1 per cent of the minimal salary.

4. The consignor, consignee and seaport shall be exempted from the charge for van and container use for the following reasons:

- force majeure, hostilities, blockades or epidemics which caused the suspension of railway traffic, as well as other circumstances under which cargo handling operations are prohibited, also accidents suffered by the consignor or consignee which resulted in the suspension of their businesses;
- where the Railways provide more railway cars or containers than is agreed upon in an access-track use contract and van providing/removal contract.

5. Where the providing of special empty railway cars, as requested in an application, is delayed for the reason of the consignor, the latter shall pay a cost of the use of railway cars for the whole period of delay, at the rate indicated in the tariff guide.

Where the consignor gives a railway station an advance notice of its refusal to use these railway cars, the cost of the use of railway cars shall be calculated by the railway station for the period before the receipt of such a notice.

Where the consignor refuses to load special railway cars provided to it on the basis of its application and where it is impossible that someone else use these railway cars during a given day, the Railways shall have the consignor pay the cost of distance actually covered by these railway cars in order to be driven to the railway station, provided such a distance shall not exceed 300 km

Article 57. Liability of the parties for other defaults

1. Where a consignor loads an excess cargo into a van or container whose weight exceeds the capacity of the van or container, the consignor shall pay a fine amounting to five times the transportation cost.

Also the consignor shall indemnify the Railways for the damage caused by the accident which may occur in consequence of the overloading of the van or container.

2. In the case of the loss or damage of the railway cars or containers provided by the Railways, the consignor, consignee or other organizations are required to repair such railway cars or containers or pay the Railways a fine amounting to five times the van or container cost calculated according to their value before their loss or damage. In addition, the consignor, consignee or other organizations shall indemnify the Railways for the damage suffered by the Railways due to the loss or damage of the railway cars or containers in relation to such a portion which is not covered by the fine.

3. Where the Railways are at fault for the damage of railway cars or containers owned by the consignor, consignee or other organizations, the Railways are required to repair such railway cars or containers or pay the owner a fine amounting to five times the van or container cost and to indemnify the owner for the damage suffered by it due to the loss or damage of the railway cars or containers in relation to such a portion which is not covered by the fine.

4. Where the Railways are at fault for the loss of railway cars or containers owned by the consignor, consignee or other organizations, the Railways, at the request of the owner, shall provide to it relevant number of railway cars or containers for free and temporary use; and where the lost railway cars or containers are not found and given back to the owner, the Railways, after the end of three months, shall transfer to the consignor, consignee or any other organization which is owner of the lost railway cars or containers, as required by the law of Georgia, the railway cars or containers which had been provided to it on a temporary basis.

The rule of the change of such railway cars or containers which were leased out by the Railways and afterwards were lost or damaged by the Railways' default, shall be stipulated by a lease agreement.

5. Where the Railways, by the consent of the consignor, have provided to the consignor empty railway cars or containers in unclean condition, with open lids, doors or locks, the Railways shall indemnify the consignor for the appropriate cleaning operations at the time agreed upon by the parties.

Where the consignor is in violation of the requirements provided by Article 34 of this Code, it shall pay to the Railways a fine amounting to 45 and 15 times the minimal salary for van and container respectively, unless anything different is provided by the contract. The Railways shall be liable to above damages only in the case, where they have provided to the consignor unclean empty railway cars or containers without the consent of the consignor.

6. Where the departure or arrival of the train in the place of destination is delayed, except for suburban trains, the Railways shall pay a passenger a fine for each hour of delay at the rate of 3 per cent of the travel cost, but not more than the full cost of travel, unless they prove that

the departure or arrival was delayed due to a force majeure, any threat to the lives or health of the people or any other event beyond the reasonable control of the Railways.

The rule of the payment of fine shall be determined by the regulations for the transportation of passengers, personal cargoes, baggage and freight by the railway.

Annex No. 3.

DRAFT

LAW OF GEORGIA “ON RAILWAY TRANSPORT”

The Law “On Railway Transport” determines the economical, legal and organisational basis of railway transport activity, its place and role in the national economy and regulates its relations with passengers, consignees and consignors.

Chapter I

Scope and Definitions

Article 1. Railway Transport in the National Economy

Railway transport is part of a single transport system, that satisfies the needs of the population, enterprises and organisations of the governmental and non-governmental sectors concerning transportation and transit and other services in national and international conveyance, and also carries out military transit based on the charter on railway transport military transit which is confirmed by the President of Georgia.

Private legal persons may implement passengers, consignees and consignors services under rules regulated by legislation.

Article 2. Definitions and Interpretation

In this law:

- a) "Railway enterprises" are enterprises which provide railway transport services and/or manage a railway infrastructure.
- b) "Transport services" comprise the carriage of passengers or goods on a railway infrastructure.
- c) Managing a railway infrastructure includes the building, operation and maintenance of railway track and infrastructure and signalling as well as the management of traffic and security systems.
- d) "Railway infrastructure" is the territory of railway transport and includes all routes, rails, signalling, telecommunication and fixed installations necessary for the circulation and safety of traffic and includes also buildings which serve the administration of the railway infrastructure, passenger and goods platforms and buildings in which are found sales and dispatch facilities for the transport of goods and passengers as well as movable and non-movable

sales, dispatch and loading facilities provided that they are available to every railway enterprise. Railway infrastructure does not include private sidings.

e) “Private sidings” means railway tracks and associated equipment and buildings used for loading and unloading of freight which belong to the managers of the sidings.

f) “Public service obligations” means obligations which the railway enterprise, if considering its own commercial interests, would not assume or would not assume to the same extent or under the same conditions and consist of the obligation to operate, the obligation to carry and tariff or fare obligations.

g) “Railway joint stock company” means the joint stock company required to be established by Article 3 of this Law.

Chapter II

Reorganisation of the present railway administration.

Article 3. Transitional provisions.

- 3.1 The present railway administration, immediately upon the enactment of this law, shall become a structural unit within the Ministry of Transport under the competence of the Minister for Transport, and shall then be established as a joint stock company (“the railway joint stock company”).
- 3.2 Until the railway joint stock company is established, the provisions of the Law of Georgia “On the Structure and Activities of State Power shall apply; the railway enterprise shall also be managed in accordance with the principles of Article 8.1 of this Law.
- 3.3 The railway joint stock company shall be established by the Minister for Transport under the Law of Georgia “On Entrepreneurs” at the earliest moment and in any event not later than six months after this Law comes into force.
- 3.4 The balance sheet of the railway joint stock company shall not include the railway infrastructure, which shall belong to the State in perpetuity.
- 3.5 The functions described in this law as functions of the Ministry shall not be functions of the railway joint stock company. The Ministry may retain in its own employment such staff of the present railway administration as it needs for the purpose of discharging any of its railway functions.
- 3.6 The present railway administration under the supervision of the Ministry of Transport shall establish subsidiaries and transfer to these subsidiaries social and non-profit making activities and the staff concerned with these activities.

The balance sheets of these subsidiaries shall include the assets associated with the activities, unless these assets are required for railway operations, in which case monetary compensation representing the value taken by the railway enterprise shall be included in these assets.

These subsidiaries shall then cease to be the responsibility of the railway enterprise, they shall be the responsibility of and belong to the appropriate Ministries, and in the case of doubt as to the Ministry responsible, shall be the responsibility of and belong to the Ministry of Transport until this issue is resolved.

Article 4. Organisation of the railway joint stock company.

- 4.1 The railway joint stock company shall be formed and shall be regulated under the provisions of the Law “On Entrepreneurs” and shall also observe the requirements of this Law. The charter and regulations of the railway joint stock company shall be determined by the Ministry of Transport and approved in accordance with the relevant procedures.
- 4.2 The Ministry of Transport shall have the power of management over all of the State owned shares in the railway joint stock company.
- 4.3 The directors of the railway joint stock company who are concerned with the technical operation of railway transport services or the technical maintenance of railway infrastructure shall possess the relevant qualifications and competence for their areas of activity.
- 4.4 Activities of the railway joint stock company not concerned with providing railway transport services or managing railway infrastructure shall be re-organised. Separate subsidiary entities, which may be joint stock companies owned by the railway joint stock company, but which must have their own separate balance sheet and accounting, shall be established for these activities by the railway joint stock company. This process must be completed within twelve months from the date of the establishment of the railway joint stock company. These subsidiaries may be privatised.
- 4.5 The railway joint stock company may also establish subsidiary joint stock companies for specific transport services or for managing railway infrastructure; it may do so either on its own account or in joint venture with private investors. These subsidiaries may be privatised, subject to the approval of the Government of Georgia.
- 4.6 The railway joint stock company including its subsidiaries shall be managed and shall conduct its business planning in accordance with the principles set out in Article 8 of this Law.

Chapter III

Management of Railways

Article 5. Legislation in the sphere of railway transport.

The legislation in the sphere of railway transport consists of the Constitution of Georgia, contracts and agreements of Georgia in the international sphere, provisions of the Ministry of Transport of Georgia and other normative acts.

Article 6. Property of railway transport.

The railway infrastructure shall always be the property of the State, and shall be managed in accordance with contracts entered into between the Ministry of Transport and railway enterprises.

The equipment associated with the railway infrastructure may not be transferred to other organisations without the consent of the Ministry of Transport.

Where required by the national interest, the Ministry of Transport may make regulations restricting the disposal by State owned railway enterprises of locomotives, rolling stock, equipment for loading and unloading and other essential equipment.

Article 7. Territory of the railway infrastructure, zones for protection and protection of the environment.

In accordance with the legislation of Georgia, the territory of railway infrastructure is the territory in its usage.

The territory of the railway infrastructure is allotted for the rails and stations (including the right of way) as well as for constructions, buildings and other objects which are necessary for the development and exploitation of the railway infrastructure. "Right of way" is territory adjoining the railway, the sizes of which are determined by confirming norms and documentation, but no more than 20 metres on each side of the outlying rail is allowed.

For the provision of normal exploitation of rails, equipment and other objects of the railway infrastructure, located in places of natural calamity, protective zones are regulated.

The rule on the determination of protective zones, their sizes and the regime of using the territory which is allotted for this purpose is determined by the legislation of Georgia.

Railway enterprises are obliged to make provision for the effective use of natural resources and to safeguard the environment from contamination. Railway enterprises are obliged to make reconstructions and make compensation for damage of an ecological character in order to eliminate the results of accidents, collisions and other cases, caused by them. The legislation of Georgia concerning the protection of the environment shall apply to all railway enterprises.

Article 8. Railway Management.

- 8.1 Railway enterprises must be independent in direction, management and administration as well as from the administrative and economic control and internal accounting of the State. Their assets, budget and accounting shall be separated from those of the State.

They shall be managed according to the principles which apply to commercial companies; this shall also apply to their public service obligations and to contracts concluded in respect of these obligations.

Railway enterprises which provide railway transport services as well as managing a railway infrastructure must separate these areas in their management and accounting procedures.

Separate cost and revenue accounts must be kept for freight, passenger and infrastructure activities. Where public service obligations are undertaken, the operating accounts shall be separate. The transfer of subventions from one area to another is not permitted.

The compliance with these legal requirements must be shown in the accounting of these areas. This obligation shall apply to all State owned railway enterprises as well as to privately owned railway enterprises.

- 8.2 The Ministry of Transport acting on behalf of the State shall enter into a contract for a period of five years with the railway joint stock company.

The contract shall specify the activities (including the investment and financing program) to be undertaken by the railway joint stock company and the funds to be provided by the State as subvention, as payment in respect of public service obligations and as investment.

The railway joint stock company shall be required under the contract to produce to the Ministry for Transport a five year business plan setting out its strategy and development programme and corresponding operational and financial targets, projected over a five year period, and encompassing the infrastructure management, freight business, passenger business, the financial payments sought from the Government budget for public service obligations, corporate functions and ancillary activities and business plans.

At the end of the first year, the railway joint stock company shall be required to report on the details of the extent of achievement measured against these targets. The contract shall then be revised having regard to this, and extended for a further year, with the requirement that the business plan also be extended for a further year.

This process shall be repeated on an annual basis, with the intention also that the business plan shall always be projected five years forward and shall continue without limitation for so long as the railway joint stock company remains in the majority ownership of the State.

The terms of the contract shall at all times follow good commercial practice.

Article 9. Public Service Obligations and non-commercial services

- 9.1 The Ministry of Transport may require railway enterprises to undertake public service obligations.
- 9.2 Such public service obligations may be included in contracts entered into between the Ministry of Transport and railway enterprises or may be specified by order. Orders or contracts shall specify the level of services which are to be operated, the level of passenger fares and the extent of concessionary fares given to particular passenger classes.
- 9.3 Compensation for public service obligations, social, military transit and any other non-commercial services required by the Government shall be paid to railway enterprises out of the annual State budget.
- 9.4 The amount of the compensation shall be not less than the cost saving which would be possible if the non-commercial services were terminated, taking into account all relevant matters.
- 9.5 Under no circumstances shall cross-subsidisation of loss-making passenger services from freight services be permitted.
- 9.6 Where there is doubt as to which Ministry or Government agency is liable to pay compensation under this Article, it shall be paid to the railway enterprise by the Ministry of Transport, which shall in turn be entitled to be re-imbursed by the party that is liable.

Article 10. Tariffs

- 10.1 Tariffs for international transit including the countries of the former Soviet Union are determined on the basis of international contracts and agreements.
- 10.2 All railway enterprises, both privately and State owned (including the present railway administration and the railway joint stock company) shall be free to set

their own tariffs for freight, which shall be published by these enterprises, except where control is necessary for traffic where railway transport has a natural monopoly.

- 10.3 Where tariffs are controlled in a monopoly situation, the tariffs are determined by the Ministry of Transport with the agreement of the Ministry of Finance and subject to the approval of Parliament. These tariffs must respect the commercial principles under which railway enterprises operate.
- 10.4 In all situations, it shall be permissible for the contract with the customer to provide for additional payment for work and services not envisaged in the tariff.

Article 11. Management and operation of the Railway Infrastructure.

- 11.1 The Ministry for Transport has responsibility for the management and operation of the railway infrastructure. This responsibility shall be discharged on the basis of contracts entered into between the Ministry of Transport and railway enterprises. One or more contracts may be entered into, and they may be with the railway joint stock company and with other railway enterprises.

The contracts shall require that such railway enterprises shall plan operations so as to maximise the amount of traffic which may be carried on the railway infrastructure and in such a way that shall best facilitate the plans and requirements of all railway enterprises intending to use it.

- 11.2. The Ministry for Transport shall establish a charge for the use of the railway infrastructure to railway enterprises that provide transport services. The charges shall be collected by the railway enterprise managing the railway infrastructure and shall be used to meet the operating costs and investment costs as agreed with the Ministry in the management contract. Any surplus shall be retained in a fund for re-investment in the railway infrastructure. The charges shall be calculated by the railway enterprise managing the infrastructure, with the approval of the Ministry of Transport and Ministry of Finance and shall be reviewed when circumstances change. The charges shall not discriminate between different railway enterprises and shall also be paid by the railway enterprise managing the railway infrastructure if that railway enterprise also provides transport services.
- 11.3 No railway enterprise shall be permitted to use the railway infrastructure unless it has been granted a licence for this purpose, except where the provisions of international agreements permit such use.
- 11.4 Licences to use the railway infrastructure shall be issued in accordance with the law and the Ministry of Transport shall make and publish regulations on standards concerning these licences. In all cases the applicant railway enterprise must be able to meet standards relating to good repute, financial fitness, professional competence and cover for civil liability.

- 11.5 The Ministry of Transport may, by order, require the railway joint stock company to provide traction to other railway enterprises that intend to use the railway infrastructure, on commercial terms.
- 11.6 Owners and users of private sidings shall comply with the rules of the railway enterprise managing the railway infrastructure and of the Ministry of Transport concerning the movement of their own rolling stock on the railway infrastructure. They are responsible for the safe movement of the rolling stock on the private sidings, and shall maintain the technical equipment and the rolling stock to the appropriate standard.

Chapter IV

Safety and Security

12. Safety of Railway enterprises and Railway Infrastructure

- 12.1 The Ministry of Transport shall exercise State control over railway transport. It shall appoint inspectors, who shall be entitled to enter upon the railway infrastructure and upon the property of railway enterprises for the purpose of supervising and checking the same and reporting their findings to the Ministry of Transport.
- 12.2 Regulations on the technical exploitation of railway infrastructure and railway transport services are the responsibility of the Ministry of Transport
- 12.3 Railway enterprises managing the railway infrastructure are obliged to make safe provision for the safe movement of trains.

Locomotives, rolling stock, equipment and other technical means must correspond to the rules of railway exploitation, and requirements regulated by security, labour protection, ecological and State standards.

Railway stations and other locations where intensive movement of trains takes place and where shunting movements are carried out are zones of extended danger. Rules concerned with railway working, movements and crossing the rails are prepared by the railway enterprise managing the railway infrastructure and confirmed by the Ministry of Transport.

Placing objects which are radioactive, explosive, poisonous or toxic near buildings or rails of general use is prohibited. Such objects may not be transported to such locations or stored, loaded or unloaded there.

The minimum distance of separation from the rails as well as the points of intersection by pipes, communication and electronic lines is determined by appropriate constructive norms and rules prepared by the railway enterprise managing the railway infrastructure and approved by the Ministry of Transport.

All persons, organisations and enterprises that send and receive explosive, poisonous, radioactive and other kinds of dangerous freight and goods are obliged to make provision for their safe transportation based on the rules approved by the Ministry of Transport.

During the transportation process, protection of dangerous freight and goods is provided by the transport police.

Article 13. Protection of freight and other objects transported by rail.

During transportation, the protection of freight, luggage and mail is provided by the railway enterprise.

The most important objects and special freight transported by railway while in the railway stations and during the transportation are protected by transport police. The list of such objects and freight is confirmed by the Ministry of Transport, after consultation with railway enterprises.

The railway enterprise is materially responsible for its consignees and consignors.

The sale of freight and goods which lacks the appropriate documentation and cases of unprotected transportation are dealt with in the railway enterprises terms of contract.

Safeguard of public order, the struggle against criminality and fire control shall be provided by the transport police and its territorial subdivisions together with the railway enterprises.

Fire prevention prophylactic operations are implemented and fires are extinguished by a special division of the railway enterprise managing the railway infrastructure. In the case of emergency, this is done with the fire brigades of the Ministry of Internal Affairs.

Article 14 Organisation of Railway Transport operations in cases of emergency.

Railway enterprises shall take measures to eliminate the causes of all kinds of collisions, accidents and events of natural calamity that may be prevented in the future development of railway transport.

The transport police, territorial subdivisions of the police, troops and subdivisions of the Ministry of Defence shall assist in eliminating the results of collisions, accidents and events of natural calamity that may be hazardous to health, train movements or endanger freight and goods or its storage.

Local authorities shall, during natural calamity, carry out works required by the railway enterprise managing the railway infrastructure.

Chapter V

General

Article 15. Responsibility for damage to railways.

Responsibility of a person for damaging the technical means, prevention and obstruction of railway works is determined by the legislation of Georgia.

Article 16. Terms of employment of staff of railway enterprises.

16.1 The terms of employment of the staff of railway enterprises are regulated by the legislation of Georgia.

16.2 The Ministry of Transport may make regulations specifying categories of employees who are required to undergo specific training. These regulations may require that certificates of competence are required to be held by specific categories of employees, to be issued in accordance with the regulations.

16.3 The Ministry of Transport may make regulations requiring specific categories of Employees to comply with medical standards. The regulations shall specify the required medical standards.

Article 17. Language of Communication in Railway Transport.

All kinds of accounting, balance sheets, commercial, technical documentation, telecommunications, legal and technical information as well as internal staff communications in railway enterprises and organisations which are connected with train services, passenger transportation and freight and goods transit are implemented in the Georgian language.

Article 18. Railway time.

In the organisations and enterprises of railway transport, and which take part in traffic, the local time of Tbilisi shall be used, in order to provide central control of the traffic.

Article 19. Responsibility of Railway Enterprises.

Liability of railway enterprises for not meeting the freight delivery date as well as late delivery of freight to the destination and late delivery of passengers to appropriate stations is determined by terms of the contract, and the laws of Georgia.

Article 20. Insurance.

For the social maintenance of passengers and the members of their families, State obligatory insurance in respect of injuries to passengers is required for railway enterprises.

Voluntary insurance of freight and luggage is also possible.
