

## **Agreement on the development of Multimodal Transport TRACECA**

The Governments of the states-participants of the Basic Multilateral Agreement on International Transport for Development of the Europe – the Caucasus – Asia Corridor signed in Baku on 8<sup>th</sup> September 1998 (MLA), hereinafter referred to as the «Parties»,

Acknowledging the multimodal transport of goods as a promising mode of transport,

For the purpose of coordinating the activity of all participants of transport process, facilitation and creation of favorable conditions for the development of multimodal transport,

agreed on the following:

### **Article 1 General Provisions**

1. The present Agreement shall regulate relations between transport organizations, multimodal transport operators, consignors, consignees, other physical and legal persons, acting on behalf of the consignor carrying goods in multimodal services, define rights, obligations and responsibilities of each participant of transport operations.
2. The present Agreement shall be applied in multimodal transport of goods between the states-participants of the MLA and transit through the territories of these countries, effected by the forwarders registered on the territory of one of the Parties with the points of departure or destination on the territories of the states of the parties, with the use of all modes of transport.
3. The present Agreement shall not affect rights and obligations of the Parties stipulated in other international agreements signed by the states-participants of the MLA.

### **Article 2 Objectives**

1. The Parties shall endeavor to harmonize their legislation to implement a unified legal framework of multimodal transport development using the definitions and based upon the concepts contained in the present Agreement.

2. The form of the multimodal transport documentation to be used for the purpose of the present Agreement execution may be specified by the Parties.

### **Article 3 Definitions**

The definitions in the present Agreement shall bear the following meanings:

**a) Multimodal transport (MT)** means a goods transportation performed by at least two different modes of transport;

**b) Multimodal transport contract** means a contract for the carriage of goods by two or more modes of transport;

**c) Multimodal transport document** means a document evidencing a multimodal transport contract issued in a negotiable or a non-negotiable form (consignment note of multimodal transportation, multimodal transport waybill and any other legally accepted form), whereby the MTO has accepted the goods for carriage and assumed the responsibility to deliver the goods as agreed thereby;

**d) Multimodal transport operator (MTO)** means a natural or legal person who concludes a multimodal transport contract and assumes responsibility for the performance thereof by issuing a document of multimodal transportation either in negotiable or non-negotiable form, and on its behalf organizes multimodal transport;

**e) Carrier** means a natural or legal person who actually performs or undertakes to perform the carriage, or part thereof, whether he is identical with the multimodal transport operator or not;

**f) Consignor** means a natural or legal person who concludes the multimodal transport contract with the multimodal transport operator;

**g) Consignee** means a natural or legal person entitled to receive the goods from the multimodal transport operator;

**h) Delivery** means the handing over of the goods to the consignee in accordance with the provisions of the contract of multimodal transport;

**i) SDR** means special drawing rights as defined by the International Monetary Fund (SDR);

**j) Goods** means property accepted for transportation by a carrier, according with modes of transport rules;

**k) Modes of transport** means railway, road, sea, river and air transport.

### **Article 4 Transport documents**

1. The content of the Multimodal transport document shall be the following:

- a) general nature of goods, the relevant product code required for identification of goods, indication where relevant of the dangerous nature of the goods, number of pieces or articles and gross weight or its quantity, marked otherwise, these data being given the way they were presented by the consignor;
- b) apparent state of goods;
- c) freight amount;
- d) name and location of the MTO;
- e) name of consignor;
- f) name of consignee;
- g) location and data of taking goods under the authority of the MTO or its representative;
- h) place of destination (place of goods delivery);
- i) date or term of goods delivery to the place of destination in the event that they have been agreed by the parties to the contract;
- j) place and date of issuance of multimodal transport document;
- k) signature of the MTO or its authorized person;
- l) fees for each mode of transport, if they have been directly agreed by the parties to the contract, or fees including names of currency subject to payment by a consignee, or other indications on effecting payments by a consignee;
- m) intended service route, modes of transport and points of goods transshipment, in case they are known at the time of issuance of Multimodal transport document;
- n) notes of competent authorities;
- o) other data which by agreement between the parties may be included into the Multimodal transport document in case they do not contradict the national legislations of the Parties;
- p) languages used.

2. The Parties via the TRACECA structures shall elaborate and approve the unified form of the multimodal transport document.

#### **Article 5 Insurance**

1. The Parties shall endeavor to provide a legal basis to enable the MTO insure its liability.

2. The Parties shall however leave it to the discretion of the MTO to provide insurance as referred to in p. 1. of this Article of the present Agreement, depending on the contractual arrangements.

#### **Article 6 Responsibilities of MTO**

1. The period of responsibility of the MTO shall include the whole time when the MTO has the goods in his charge, until handing over the goods to the consignee.

2. The present Agreement shall also provide that:

a) the MTO shall be responsible for acts and omissions of his employees or agents, when any such servant or agent is acting within the scope of his employment;

b) the MTO shall be responsible for any other person of whose services he makes use for the performance of the contract, as if such acts and omissions were his own.

3. The present Agreement shall also provide that the MTO may undertake to perform or to procure the acts necessary to ensure delivery of the goods.

4. The present Agreement shall provide the following modalities of delivering the goods to the consignee:

a) when the MT document has been issued in a negotiable form "to bearer", to the person surrendering one original of the document, or

b) when the MT document has been issued in a negotiable form "to order", to the person surrendering one original of the document duly endorsed, or

c) when the MT document has been issued in a negotiable form to a named person, to that person upon proof of his identity and surrender of one original document; if such document has been transferred "to order" or in blank the provisions of (b) above apply, or

d) when the MT document has been issued in a non-negotiable form, to the person named as consignee in the document upon proof of his identity, or

e) when no document has been issued, to a person as instructed by the consignor or by a person who has acquired the consignor's or the consignee's rights under the multimodal transport contract to give such instructions.

#### **Article 7 Grounds for liability of MTO**

1. The MTO shall be liable for actual loss resulting from loss of, or damage to, the goods as well as from delay in delivery, unless the MTO proves that there is no fault or neglect of his own, his employees, agents or sub-contractors has caused or contributed to the loss, damage or delay in delivery.

2. Delay in delivery occurs when goods have not been delivered within the time expressly specified in the contract or, in the absence of such a contract, within the time it would be reasonable to require of a diligent MTO, having regard to the circumstances of the case.

3. If the goods have not been delivered within 30 consecutive days following the date specified in the contract, the claimant may, in the absence of evidence to the contrary, treat the goods as lost.

## **Article 8 Limitation of liability of MTO**

1. If the nature and value of the goods have been declared by the consignor before the goods have been taken in charge by the MTO and inserted with the agreement of the MTO in the multimodal transport document, the MTO shall be liable in full for the loss of the goods and also for the goods damaged in the amount equivalent to the value of goods damaged, or, in the case where the damage to the goods is such that none of the goods can be recovered, the MTO shall have to compensate in full for the goods lost. The value of the goods shall be deemed to be the Invoice value.
2. In all other cases when the nature and value of the goods have not been declared by the consignor, the MTO's liability for loss of, and damage to the goods shall be limited to 8.33 SDR per kilogram of gross weight of the goods lost or damaged.
3. Liability for loss resulting from delay in delivery, and for consequential loss or damage other than loss of, or damage, to the goods is limited to 5 percent of the transportation contract price for every day of delay. However, in any event, the liability of the MTO for the delay in delivery of goods cannot exceed 30 percent of the transportation cost agreed in the multimodal transport contract.
4. The MTO shall not be entitled to the benefit of the limitation of liability if it is proved that the loss, damage or delay in delivery resulted from an act or omission of the MTO done with the intent to cause such loss, damage or delay or recklessly and with knowledge that such loss, damage or delay would probably result.

## **Article 9 Right of lien**

The MTO shall have the right of lien on the goods and documents in his charge, until the MTO is fully paid for the transportation and reimbursed for other costs incurred in connection with the transportation, unless otherwise agreed by the Contract.

## **Article 10 Liability of consignor**

1. The consignor shall be deemed to have guaranteed to the MTO all information given with respect to the goods, and, in particular, wherever applicable, their dangerous character.
2. The consignor shall indemnify the MTO against any loss and relieve him of responsibility hereof as a result of inaccuracies in or inadequacies of the data referred to in the transport documents.
3. The consignor shall remain liable even if the multimodal transport document has been transferred by him to another person.

4. The right of the MTO to such indemnity and relieve him of responsibility hereof shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

#### **Article 11** **Limitation period**

The parties of the contract shall, unless otherwise expressly agreed, be discharged of all liability under the contract unless a claim brought within one year of the goods being delivered, or the date when the goods should have been delivered, or the date when in accordance with present Agreement, failure to deliver the goods would give the consignee the right to treat the goods as lost as described in paragraph 3 of Article 7 of the present Agreement.

#### **Article 12** **Settlement of disputes**

All disputes and differences related to the application or interpretation of the present Agreement provisions shall be settled by means of negotiations and consultations between the Parties.

#### **Article 13** **Presentation of amendments and additions**

1. With the consent of the Parties, amendments and additions to the present Agreement shall be incorporated by means of protocols which shall form an integral part of present Agreement.

2. The manner of entry into force of Protocols shall be the same as for the present Agreement.

#### **Article 14** **Depository**

1. The Depository of the present Agreement shall be the Republic of Azerbaijan which will send the certified copies of present Agreement to the Parties who signed it.

2. The Depository shall inform the Parties of accession of other States to present Agreement and of termination in respect of any of the Parties.

#### **Article 15** **Entry into force, accession and duration**

1. The present Agreement shall enter into force 30 days after the date of receipt by the Depository of the fourth notification on completion of the appropriate internal state procedures.

2. The present Agreement is open for accession of any other state in the event that the Depository has received the agreement of all the Parties through the diplomatic channels.

3. Documents concerning accession shall be deposited for keeping with the Depository, referred to in Article 14 of present Agreement.

4. The present Agreement shall enter into force for the acceded states 30 days after sending their instrument on accession to the Depository.

5. The present Agreement is made for an indefinite period.

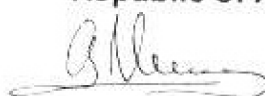
6. Present Agreement may be terminated in respect of any Party if this Party gives at least six months notice in writing to the Depository of its intention to terminate the Agreement.

7. The obligations under the contracts, agreements and other understandings signed in accordance with provisions of the present Agreement shall remain in force after its termination until completely fulfilled.

Done at Cholpon-Ata, Issuk-Kul on 16<sup>th</sup> June 2009, in one original copy in the English and Russian languages, both texts being equally authentic.

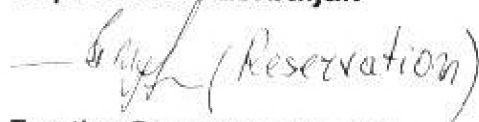
In witness whereof the undersigned Heads of delegations or their plenipotentiaries have signed the present Agreement.

**For the Government of the  
Republic of Armenia**

 (objection)

**For the Government of the  
Republic of Moldova**

**For the Government of the  
Republic of Azerbaijan**

 (Reservation)

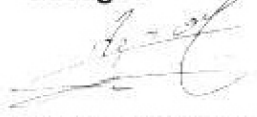
**For the Government of  
Romania**

**For the Government of the  
Republic of Bulgaria**

**For the Government of the  
Republic of Tajikistan**



**For the Government of  
Georgia**

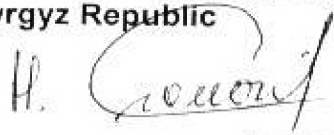


**For the Government of the  
Republic of Turkey**

**For the Government of the  
Republic of Kazakhstan**

**For the Government of  
Ukraine**

**For the Government of the  
Kyrgyz Republic**



**For the Government of the  
Republic of Uzbekistan**

Reservation of the Republic of Azerbaijan to the Agreement on  
the development of multimodal transport TRACECA

**1. Referring to Paragraph 2 of Article 1 of the “Agreement on the development of multimodal transport TRACECA” Republic of Azerbaijan declares that none of the rights, obligations and provisions set out in the above-mentioned Agreement shall be applied by the Republic of Azerbaijan in respect of multimodal transport passing across its territory for which the territory of the Republic of Armenia is an originating, transit or destination territory.**

**2. The Republic of Azerbaijan reserves the right to amend or revoke at any time the provision of Paragraph 1 of the present Reservation and other Parties shall be notified of any such amendments or revocation,**

  
16.08.2009



## OBJECTION

of the Republic of Armenia to the reservation by the Republic of Azerbaijan on the 'Agreement on Development of the Multimodal Transport TRACECA' signed by the TRACECA participating states at the Seventh Annual Meeting of Ministers of Transport of the TRACECA Intergovernmental Commission in Bishkek (Republic of Kyrgyzstan) on June 16, 2009

The Republic of Armenia strongly objects to the Reservations made by the Republic of Azerbaijan on the 'Agreement on Development of the Multilateral Transport TRACECA'.

The reservation by the Republic of Azerbaijan is not in compliance with the statutory documents of the Intergovernmental Commission and impedes the development of multilateral regional cooperation in transport within TRACECA.

A handwritten signature in black ink, appearing to be 'A. Hovhannisyan', written over a horizontal line.