

**Economic and Social Council**

Distr.: General  
15 January 2019  
English  
Original: French

---

**Economic Commission for Europe****Inland Transport Committee****Working Party on Rail Transport****Group of Experts towards Unified Railway Law****Nineteenth session**

Geneva, 2–4 April 2019

Item 2 of the provisional agenda

**Execution of the Mandate of the Group****System for revision of the Convention concerning  
International Carriage by Rail (COTIF) and its appendices****Transmitted by the Intergovernmental Organisation for International  
Carriage by Rail (OTIF)**

1. The drafters of the first international convention concerning the carriage of goods by rail realized that it would be necessary to adapt it regularly to economic, legal and technical changes.<sup>1</sup> Member States have been able, through eight regular review conferences and several extraordinary review conferences, to not only regularly adapt rail transport law to continuous changes, but also to maintain the unity of the law.
2. The revision procedure established by the Eighth Revision Conference, of 1980 (COTIF 1980), and amended by the Vilnius Protocol of 1999 (COTIF 1999), makes provision for amendment proposals to be considered and decisions to be taken by four different competent bodies: the General Assembly; the Revision Committee; the RID Committee of Experts; and the Committee of Technical Experts.
3. The revision procedures are different depending on which bodies receive amendment proposals for a final decision. Decisions of the General Assembly must be ratified, accepted or approved, but that is not the case for decisions of the other three bodies.
4. In other words, there are two systems for amending the Convention concerning International Carriage by Rail (COTIF) and its appendices:
  - A “conventional” public international law system to amend the basic provisions under the competence of the General Assembly, requiring the approval of member States
  - Another revision system, for the amendment of the more technical provisions, which fall under the competence of the committees

---

<sup>1</sup> International Convention of Bern on the transport of goods by rail, of 14 October 1890 (Bern Convention).



5. In practice, the holding of preparatory and advisory working groups has proven useful for ensuring the coherence and consistency of the legal rules.

## **I. General Assembly**

6. The General Assembly is the supreme decision-making body of OTIF. It meets in ordinary session every three years. It may also hold extraordinary sessions.

7. Pursuant to article 33 of COTIF, the General Assembly is competent to amend the Convention itself and its appendices, unless the amendments are clearly under the competence of the Revision Committee, the RID Committee of Experts or the Committee of Technical Experts.

8. Interestingly, in the current revision system of COTIF, the General Assembly is competent for any important amendments and changes in civil law provisions that, in some member States, must be adopted by the parliament, such as provisions relating to the scope of the instrument, the basis for liability or the burden of proof (see the provisions of COTIF and its appendices falling under the competence of the General Assembly, in the annex).

9. The amendments made by the General Assembly have to be submitted to the member States for approval, and the approval process is determined by the constitutional law of each member State.

10. Approval of amendments by member States, and any declarations objecting to such amendments, must be notified to the Secretary-General; approval of an amendment by a member State or its declaration objecting to such an amendment must thus be explicit.

11. Amendments to the appendices (requiring approval by half of the member States) may enter into force more quickly than amendments to the Convention itself (requiring approval by two thirds of the member States).

12. Amendments enter into force 12 months after their approval for all member States except those that, before their entry into force, have filed a declaration in which they state that they do not approve of the amendments in question. Member States are thus not forced to accept amendments if they do not wish to do so, but they must explicitly make it known before the entry into force of such an amendment.

13. For traffic with and between member States that have declared that they do not approve of the amendments within the respective deadline, application of the relevant appendix or appendices is suspended as soon as such decisions enter into force. This system makes it possible to ensure uniformity of the law applicable to international carriage by avoiding the simultaneous application of several versions of the uniform rules among the various member States.

14. In practice, it takes approximately six years for amendments adopted by the General Assembly to enter into force. For this reason, the General Assembly at its thirteenth session, on 25 and 26 September 2018, changed the revision procedure for the COTIF provisions and appendices falling within its competence.

15. When the new revision procedure introduced by the thirteenth session of the General Assembly enters into force, amendments of the appendices adopted by the General Assembly will enter into force more promptly, within a specified time frame, three years after notification by the Secretary-General. The General Assembly may, however, decide by a simple majority to defer their entry into force.

## **II. Revision Committee**

16. The Revision Committee is convened by the Secretary-General.

17. Within the limits defined in article 33 (4), the Revision Committee is competent to make amendments to certain provisions of the Convention itself, and also to the Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV), the Contract of International Carriage of Goods by Rail (CIM), Contracts of Use of Vehicles in

International Rail Traffic (CUV) and the Contract of Use of Infrastructure in International Rail Traffic (CUI), as well as to the Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions Applicable to Railway Material Intended to Be Used in International Traffic (APTU) and the Uniform Rules concerning the Technical Admission of Railway Material Used in International Traffic (ATMF).

18. Amendments approved by the Revision Committee enter into force for all member States/States parties<sup>2</sup> on the first day of the twelfth month following their notification by the Secretary-General to the member States.

19. At the international level, there is no requirement for explicit approval by member States/States parties of the amendments adopted by the Revision Committee (amendments are tacitly accepted).

20. Member States/States parties may file objections within four months from the date of notification by the Secretary-General of amendments. If a quarter of member States/States parties file objections, the amendments do not enter into force. When amendments to an appendix enter into force, application of the appendix is suspended for traffic with and between States parties that have objected to the amendments.

21. The suspension is lifted one month after the date when the Secretary-General notifies the other member States that such an objection has been withdrawn.

### **III. RID Committee of Experts**

22. The RID Committee of Experts meets every two years. It has exclusive competence to decide on proposed amendments to COTIF appendix C and its annex.

23. Amendments approved by the RID Committee of Experts enter into force for all States parties on the first day of the sixth month following their notification by the Secretary-General to the member States.

24. States parties may file objections within four months from the date of notification by the Secretary-General of amendments. If a quarter of States parties file objections, the amendments do not enter into force. When amendments to appendix C enter into force, for traffic with and between States parties that have objected to the amendments, application of appendix C is suspended.

25. Furthermore, twice a year, OTIF and the Economic Commission for Europe hold an RID/ADR/ADN Joint Meeting, which makes it possible to provide for simpler multimodal transport of dangerous goods by rail, road and inland navigation.

26. For obvious safety reasons, the annex to appendix C must be able to be adapted promptly. Revision of this annex takes place through a simplified procedure every two years, in parallel with the revision of the UN Model Regulations, which contain recommendations for the transport of dangerous goods for all modes of transport.

### **IV. Committee of Technical Experts**

27. In practice, the Committee of Technical Experts meets once a year. It approves proposals to validate technical standards or to adopt uniform technical requirements.

28. The Committee adapts the APTU and ATMF Uniform Rules applicable to railway material for use in international traffic, in particular in respect of:

- (a) Adoption of technical prescriptions for vehicles and infrastructure and validation of standards;
- (b) Procedures for vehicle conformity assessment;

<sup>2</sup> "State party" means any member State of the Organization that has not made a declaration according to which it will not apply an appendix in its entirety (first sentence of art. 42 (1) of COTIF).

- (c) Provisions for vehicle maintenance;
- (d) Responsibilities for train composition and the safe use of vehicles;
- (e) Provisions for risk assessment and evaluation;
- (f) Specifications for registers.

29. Amendments approved by the Committee of Technical Experts enter into force for all States parties on the first day of the sixth month following their notification by the Secretary-General to the member States.

30. States parties may file objections to the validation of a technical standard or the adoption of a uniform technical requirement within four months from the date of the notification of amendments by the Secretary-General. If one fourth of the States parties file objections, the validation of a technical standard or the adoption of a uniform technical requirement does not enter into force.

31. If an objection is raised against the validation of a technical standard or the adoption of a uniform technical requirement, only the ones in question are suspended in the traffic with and between States parties, with effect from the time when the decisions enter into force; the same applies in the case of a partial objection.

## **V. Working groups**

32. Article 16 (9) of COTIF specifically allows the committees to appoint working groups to deal with specific questions.

### **A. Working group of the Committee of Technical Experts**

33. At its first session, in 2006, the Committee of Technical Experts established a working group on technical aspects (WG TECH) to prepare its sessions. The working group has been active for more than 10 years and meets three times a year.

### **B. Working group of the RID Committee of Experts**

34. At its fifty-first session, in 2012, the RID Committee of Experts established a standing working group that meets once or twice a year in order to prepare amendments to RID or its annex for adoption by the RID Committee of Experts.

35. Under the Convention, the other bodies of OTIF (General Assembly, Administrative Committee and Secretary-General) also implicitly have the right to establish working groups.

### **C. Working groups of the Secretary-General**

(a) The working group established in 2013 on the revision of the CUV Uniform Rules. Consisting of experts from the States, national safety authorities and other stakeholders, the committee has met three times. Its proposals served as a basis for the amendment of the CUV Uniform Rules by the twenty-fifth session of the Revision Committee and the twelfth session of the General Assembly.

(b) The working group established in 2014 with the support of the Revision Committee to prepare for the revision of the CUI Uniform Rules. It has met four times. On the basis of the proposals prepared by the working group, the twenty-sixth session of the Revision Committee and the thirteenth session of the General Assembly considered and adopted the amendment to the CUI Uniform Rules.

(c) The working group established in 2017 on the amendment of the revision procedure for COTIF. The OTIF secretariat prepared proposals for the twenty-sixth session of the Revision Committee and the thirteenth session of the General Assembly on the basis

of the findings of the working group and additional information received from member States.

(d) The working group of legal experts established in December 2018 in order to ensure a coherent and consistent approach to the development and implementation of the OTIF legal framework. Its task will be to assist the existing bodies referred to in article 13 (1) of COTIF in the legal field, to facilitate their operation and to ensure effective management of the Convention. It will be responsible for *travaux préparatoires* and will have an advisory role in the legal field. It will specifically address the following:

- (i) Preparation of draft amendments or additions to COTIF;
- (ii) Provision of advice and legal assistance;
- (iii) Promotion and facilitation of the operation and implementation of COTIF;
- (iv) Monitoring and evaluation of the application and implementation of COTIF;
- (v) Provision of a forum for discussion and reflection, where members of OTIF can raise relevant legal matters and discuss them.

## Annex

### Provisions of COTIF and its appendices under the competence of the General Assembly

#### COTIF

All articles except article 9 (Unit of account), and article 27 (2–5) (Auditing of accounts)

#### CIV

##### **Title I      General provisions**

Article 1      Scope

Article 2      Declaration concerning liability in case of death, or personal injury to, passengers

Article 5      Mandatory law

##### **Title II      Conclusion and performance of the contract of carriage**

Article 6      Contract of carriage

##### **Title III      Luggage**

Article 16      Consignment of registered luggage

##### **Title IV      Liability of the carrier**

###### **Chapter I      Liability in case of death of, or personal injury to, passengers**

Article 26      Basis of liability

Article 27      Damages in case of death

Article 28      Damages in case of personal injury

Article 29      Compensation for other bodily harm

Article 30      Form and amount of damages in case of death and personal injury

Article 31      Other modes of transport

###### **Chapter II      Liability in case of failure to keep the timetable**

Article 32      Liability in case of cancellation, late running of trains or missed connections

###### **Chapter III      Liability in respect of hand luggage, animals, registered luggage and vehicles**

###### *Section 1      Hand luggage and animals*

Article 33      Liability

Article 34      Limit of damages in case of loss of or damage to articles

Article 35      Exclusion of liability

*Section 2 Registered luggage*

- Article 36 Basis of liability  
Article 37 Burden of proof  
Article 38 Successive carriers  
Article 39 Substitute carriers  
Article 41 Compensation for loss  
Article 42 Compensation for damage  
Article 43 Compensation for delay in delivery

*Section 3 Vehicles*

- Article 44 Compensation for delay  
Article 45 Compensation for loss  
Article 46 Liability in respect of other articles  
Article 47 Applicable law

**Chapter IV Common provisions**

- Article 48 Loss of right to invoke the limits of liability  
Article 49 Conversion and interest  
Article 50 Liability in case of nuclear incidents  
Article 51 Persons for whom the carrier is liable  
Article 52 Other actions

**Title V Liability of the passenger**

- Article 53 Special principles of liability

**Title VI Assertion of rights**

- Article 56 Carriers against whom an action may be brought  
Article 57 Forum  
Article 58 Extinction of right of action in case of death or personal injury  
Article 59 Extinction of right of action arising from carriage of luggage  
Article 60 Limitation of actions

**CIM****Title I General provisions**

- Article 1 Scope  
Article 5 Mandatory law

**Title II Conclusion and performance of the contract of carriage**

- Article 6 Contract of carriage (§§ 1 and 2)

- § 1: The carrier shall undertake to carry the goods for reward to the place of destination and to deliver them there to the consignee.
- § 2: The contract shall be confirmed by a consignment note. The absence, irregularity or loss of the consignment note shall not affect the existence or validity of the contract.
- Article 8 Responsibility for particulars entered on the consignment note
- Article 12 Evidential value of the consignment note
- Article 13 Loading and unloading of the goods (§ 2)
- § 2: The consignor shall be liable for all the consequences of defective loading carried out by him.
- Article 14 Packing
- Article 15 Completion of administrative formalities (§§ 2 and 3)
- § 2: The consignor shall be liable to the carrier for any loss or damage resulting from the absence or insufficiency of, or any irregularity in, such documents and information [that required by customs or other administrative authorities].
- § 3: The carrier shall be liable for any consequences arising from the loss or misuse of the documents referred to in the consignment note.
- Article 19 Exercise of the right to dispose of the goods (§§ 6 and 7)
- § 6: In the case of fault of the carrier he shall be liable for the consequences of failure to carry out an order or failure to carry it out properly.
- § 7: If the carrier implements the consignor's subsequent modifications without requiring the production of the duplicate of the consignment note, the carrier shall be liable.

### **Title III Liability**

- Article 23 Basis of liability
- Article 24 Liability in case of carriage of railway vehicles as goods
- Article 25 Burden of proof
- Article 26 Successive carriers
- Article 27 Substitute carrier
- Article 30 Compensation for loss
- Article 31 Liability for wastage in transit
- Article 32 Compensation for damage
- Article 33 Compensation for exceeding the transit period
- Article 36 Loss of right to invoke the limits of liability
- Article 37 Conversion and interest
- Article 38 Liability in respect of rail-sea traffic
- Article 39 Liability in case of nuclear incidents
- Article 40 Persons for whom the carrier is liable
- Article 41 Other actions



**Title IV Assertion of rights**

- Article 44 Persons who may bring an action against the carrier  
 Article 45 Carriers against whom an action may be brought  
 Article 46 Forum  
 Article 47 Extinction of right of action  
 Article 48 Limitation of actions

**CUV**

- Article 1 Scope  
 Article 4 Liability in case of loss or damage to a vehicle  
 Article 5 Loss of right to invoke the limits of liability  
 Article 7 Liability for loss or damage caused by a vehicle  
 Article 8 Subrogation  
 Article 9 Liability for servants and other persons  
 Article 10 Other actions  
 Article 11 Forum  
 Article 12 Limitation of actions

**CUI****Title I General provisions**

- Article 1 Scope  
 Article 2 Declaration concerning liability in case of bodily loss or damage  
 Article 4 Mandatory law

**Title III Liability**

- Article 8 Liability of the manager  
 Article 9 Liability of the carrier  
 Article 10 Concomitant causes  
 Article 11 Damages in case of death  
 Article 12 Damages in case of personal injury  
 Article 13 Compensation for other bodily harm  
 Article 14 Form and amount of damages in case of death and personal injury  
 Article 15 Loss of right to invoke the limits of liability  
 Article 17 Liability in case of nuclear incidents  
 Article 18 Liability for auxiliaries  
 Article 19 Other actions

**Title IV    Actions by auxiliaries**

Article 21    Actions against the manager or against the carrier

**Title V    Assertion of rights**

Article 23    Recourse

Article 24    Forum

Article 25    Limitation of actions

**APTU**

Article 1    Scope

Article 3    Aim

Article 9    Declarations

Article 10    Abrogation of technical unity

Article 11    Precedence of the UTP

**ATMF**

Article 1    Scope

Article 3    Admission to international traffic

Article 9    Operation prescriptions

---