



Organisation intergouvernementale pour les transports internationaux ferroviaires  
Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr  
Intergovernmental Organisation for International Carriage by Rail

**Assemblée générale  
Generalversammlung  
General Assembly**

**SG-18035-AG 13/10  
25.05.2018**

Original: EN

## **13<sup>TH</sup> SESSION**

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### **Partial revision of the Base Convention**

Proposal for modification of Article 34 of the Base Convention and Explanatory Report

(Amendment of the procedure for revising COTIF)

## I. INTRODUCTION

1. In accordance with Article 17 § 1 b) of COTIF, at its 26<sup>th</sup> session on 27 -28 February 2018, the Revision Committee considered the proposals to amend Article 34 of the Basic Convention and requested the Secretary General to submit them to the General Assembly as amended during the session for decision.

**Annex 1** to this document contains the text proposals to modify Article 34 of the Basic Convention.

The Revision Committee considered the justification in support of the modifications to Article 34 and requested the Secretary General to amend the Explanatory Report accordingly and submit it to the General Assembly for approval.

**Annex 2** to this document contains the text proposals to modify the Explanatory Report.

The Revision Committee supported the introduction of a “soft” rapportage mechanism by decision of the General Assembly, the aim of which will be to assist Member States in accomplishing their national procedures with regard to modifications adopted by the General Assembly.

## II. CONTEXT AND SUBSTANCE OF THE PROPOSAL

2. The Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Modification Protocol of 3 June 1999, establishes two principal procedures for revising COTIF.

*Amendments by the General Assembly.* The General Assembly is competent in respect of amendments to the base Convention and its Appendices, unless possible amendments come expressly within the scope of competence of particular Committees as defined in Article 33 (Competence).

Amendments adopted by the General Assembly have to be approved by Member States. The arrangements for providing “approval” are determined by the constitutional law of each Member State. “Approval” as an international legal act expresses a state’s consent to amendments to a treaty.

Amendments enter into force for all Member States twelve months after a specified number of Member States has approved them: two-thirds with regard to amendments to the base Convention and half with regard to amendments to the appendices.

Before amendments enter into force, Member States may make a declaration in terms that they do not approve such amendments. Such a declaration may have the effect of terminating a state’s membership. As soon as amendments to an appendix enter into force, application of the appendix concerned is suspended with and between the Member States that have made a declaration of non-approval of amendments to that appendix.

*Amendments by the Revision Committee.* Amendments enter into force for all Member States on the first day of the twelfth month following that during which the Secretary General has given notice of them to the Member States.

Explicit approval by Member States of amendments adopted by the Revision Committee is not required at international level (tacit approval).

Member States may formulate an objection during the four month period from the day of the notification of modifications by the Secretary General. In case of objection by one-quarter of the Member States, the amendments do not enter into force. As soon as amendments to an appendix enter into force, application of the appendix concerned is suspended with and between the Member States that have made an objection against the amendments to that appendix.

3. The current COTIF revision system was discussed and adopted at the 5<sup>th</sup> General Assembly (Vilnius, 26 May – 3 June 1999). It is worth mentioning certain important considerations made at that time:

- a) important amendments or amendments dealing with provisions of civil law, particularly principles in matters of liability, are matters which, in certain Member States, have to be dealt with by being adopted by the parliament, such as provisions concerning the scope of application, the basis of liability or the burden of proof. It is not possible to adopt a law transposing these provisions into national law within one year;
- b) a period of time that is too short might constrain a Member State either to accept an amendment that it does not want, or to oppose an amendment because of imperatives imposed by constitutional law, or to withdraw from OTIF;
- c) amendments to a Convention which has been subject to ratification require another ratification;
- d) a Member State's approval of amendments should always be explicit and it should not be possible to interpret its silence as agreement.

4. Experience shows that national approval procedures for amendments adopted by the General Assembly take around six years<sup>1</sup>. Recent amendments adopted by the 12<sup>th</sup> General Assembly (Berne, 29 and 30 September 2015), will not enter into force before the 13<sup>th</sup> General Assembly in September 2018, i.e. 3 years after their adoption, when further amendments to COTIF will be considered.

The adverse effects of the current lengthy revision procedure of COTIF by the General Assembly presented in the "[Legal assessment of the COTIF revision procedure and of possibilities for its amendment](#)" by Dr. Catherine Brölmann are the following:

- a) The extended time period that passes before important modifications to the Convention actually enter into force can have a negative impact on the further amendments needed, as the latter may be linked to the amendments whose entry into force is still pending.
- b) The fact that COTIF envisages two different procedures for modification of the Convention and its Appendices may give rise to inconsistencies between Appendices or even within one single Appendix.
- c) Long time periods before the entry into force of COTIF amendments have a direct effect on the railway market of the Member States. The regulatory framework will not meet the market's needs for speed and adaptability - ultimately this may have a negative impact on the Member States' market share in rail transport.
- d) What is said about the length of time before entry into force of COTIF amendments and its effect on the market can also be said about the unpredictability of the precise period of time until entry into force. Domestic approval is dependent on legal and sometimes political aspects of the various national legal orders of the Member States.
- e) Because of the parallel development of national and regional (notably EU, but also EEA) law, inconsistencies with and discrepancies in COTIF regulations may arise. As a consequence, Member States may feel obliged to make a declaration of non-application of certain COTIF Appendices.

5. The simplification of the procedure for revising COTIF means finding the right balance between the need for international law to be efficient and effective and allowing sufficient national control of the treaty-making process. In order to achieve this aim, it is proposed to fix with certainty the date of entry into force of amendments to the appendices adopted by the General Assembly. Member States would no longer have to approve amendments at international level, but this would not rule out national procedures that are necessary for approval and/or the incorporation of such amendments into national legal orders. This solution ensures that both the Member States and the private sector would be aware

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<sup>1</sup> It took five years for the entry into force of COTIF 1980, six years for the Protocol of 20 December 1990 and seven years for the Vilnius Protocol of 3 June 1999.

of a precise and reasonable timeframe for the national approval/incorporation of amendments and for adapting contracts.

### III. PREPARATORY WORK

6. The work programme for 2016 – 2017 adopted by the 124<sup>th</sup> Administrative Committee (Berne, 29 and 30 January 2016) provided that “With a view to the consistent and rapid implementation of amendments to COTIF and its Appendices, the legal department will carry out a study on the feasibility of adapting Article 34 of COTIF to enable amendments adopted at the General Assembly to be applied by a fixed deadline.”

The Secretariat of OTIF prepared and submitted to the 126<sup>th</sup> Administrative Committee (Berne, 6 and 7 December 2016) a study entitled “Feasibility of amending the procedure for revising COTIF”. The Administrative Committee noted the study and the Secretary General’s proposal to convene a working group to deal with the issue, with the help of a recognised expert in international public law. Afterwards, the slightly modified [study](#) was submitted to the working group to amend the procedure for revising COTIF (hereafter – working group).

7. Following a call for tenders, the task of preparing a legal opinion on the procedure for revising COTIF and possible solutions to change it was entrusted to Dr. Catherine Brölmann, an associate professor of international law at the University of Amsterdam. This legal opinion entitled “[Legal assessment of the COTIF revision procedure and of possibilities for its amendment](#)” (hereafter – legal assessment) was submitted to the Secretary General’s working group to examine the feasibility of amending the procedure for revising COTIF.

The [legal assessment](#) examines, from a legal perspective, the need and the possibilities for an amendment to the COTIF revision procedure. It includes legal analysis of the current legal framework, the complexities and adverse effects of the current COTIF revision procedure, and of international law and practice on the enactment of treaty amendments in the context of international organisations.

The overview of international practice covers the International Civil Aviation Organization (ICAO), International Labour Organisation (ILO), International Maritime Organization (IMO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO), Universal Postal Union (UPU) and certain treaty regimes. International legal practice thus shows a variety of mechanisms employed in international organisations and treaty regimes for the enactment of new rules or the amendment of existing ones, while at the same time safeguarding state consent as a legal basis. These range from definite state consent given in advance, with the organisation or organ proceeding without further consultation of the Member States, to the states (re)confirming their explicit consent for each individual decision. Such approval may be required in an explicit form or it may be arranged for states to become bound after they have not objected within a specified period of time. This mechanism is sometimes construed as “tacit approval” (or “tacit consent”), and sometimes as “opting-out” (or “contracting out”, or “negative ratification”). In the light of present day demands on the flexibility of treaty regimes and the effectiveness of process management by international organisations and treaty bodies, tacit approval and opting-out are widely used in international practice.

The [legal assessment](#) concluded by presenting eight possible amendments to the procedures for revising the base Convention and its appendices moving in the direction of further improvement of the revision procedure.

8. The working group to amend the procedure for revising COTIF met on 3 May 2017 in Berne (the [minutes](#) are available on OTIF’s website). The deliberations were based on the recommendations and proposals made by Dr. Catherine Brölmann in her [legal assessment](#).

The very productive discussions at the working group helped clarify that international public law is flexible and enabled a number of solutions to be envisaged to speed up the entry into force of

amendments to COTIF adopted by the General Assembly. However, the discussions also highlighted the difficulties Member States encounter in their national procedures. Alongside the international law rules on treaty-making, an equally important body of law exists at the national level, which governs the conduct of each state in relation to treaty-making; among other things national procedures include consultation, prior consent and the place of a treaty within the national legal order.

Participants at the working group nevertheless considered that the Secretariat was justified in trying to find solutions to avoid the risk of internal misalignment between amendments adopted by the Revision Committee and those adopted by the General Assembly, as well as external misalignment, particularly with EU law, as OTIF's task, among other things, is to act as a bridge between its Member States that are EU members and those which are not.

Some Member States supported one particular solution at the working group. This solution was for amendments to COTIF adopted by the General Assembly to enter into force on a specified date. Moreover, it was considered that this solution could be combined with a reporting procedure, which would enable states that are not in a position to approve the amendments by the deadline to explain why, so that the Organisation can try to identify these obstacles and propose solutions to overcome them.

It was also agreed to send out a questionnaire concerning national procedures applicable to amendments to COTIF, with particular focus on the availability and possibility of applying a simplified (i.e. different from conclusion of a new treaty/accession to COTIF) procedure for approval of any or certain amendments to COTIF and the time needed for national procedures.

9. 26 Member States responded to the questionnaire concerning national procedures applicable to amendments to COTIF: Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, FYR Macedonia, Georgia, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey and the United Kingdom. The Secretariat prepared an overview of the national procedures based on information gathered from the questionnaire. In addition, this information has been supplemented by further research on the law and practice of the Member States.

The national procedures proved to be very divergent and do not usually reflect the international procedures required under COTIF. The involvement of executive or legislative authorities varies from state to state. Even though it is not possible to strictly categorise all the Member States, certain general groups may be distinguished:

- a) Parliament is involved in domestic approval/incorporation of all modifications to COTIF irrespective of the procedure prescribed by COTIF itself.
- b) Parliamentary involvement is clearly necessary if provisions of COTIF require the amendment of domestic law or if it is considered of fundamental importance or is an important financial matter. On the other hand, where conclusion of a treaty at international level does not have any effect in domestic law, it might legitimately be treated primarily as an executive function.
- c) With regard to amendments to COTIF in some Member States the national procedure and competent organs are defined in advance; in others the decision is taken on a case by case basis following an assessment of the substance of the provisions in question. It is important to note that the same provisions may be considered as important or not in accordance with national legal practice. For instance, the executive or legislature approved the amendments adopted by the 12<sup>th</sup> General Assembly after national assessment of the relevant provisions.

Some legal systems foresee a simplified procedure for the adoption/incorporation of amendments to an international treaty. However, these procedures are quite different. A number of Member States also indicated that in case of the competence of the EU, EU law and procedures have to be taken into account.

Nevertheless, it is worth recalling that irrespective of national procedures - even if parliamentary involvement is necessary - Member States were able to agree on and apply the current simplified revision procedure of the Committees (Article 35). The detailed results of the consultation are set out in the annex to document [LAW-17126-CR 26/5](#), which was submitted to the 26<sup>th</sup> session of the Revision Committee.

10. At its 26<sup>th</sup> session the Revision Committee considered various proposals to modify COTIF that were submitted by the Secretary General in document [LAW-17126-CR 26/5](#). The Revision Committee endorsed the option of a fixed timescale for the entry into force of adopted amendments.

The Revision Committee also supported a recommended supplementary measure, i.e. a “soft” rapportage mechanism by decision of the General Assembly, as this might be a useful instrument in assisting Member States to complete their national procedures on time: “*Member States should inform the Secretary General of any difficulties they experience in the accomplishment of national procedures with regard to modifications adopted by the General Assembly. The Secretary General should assist those Member States wherever possible*”.

#### **IV. JUSTIFICATION FOR THE AMENDMENTS**

11. Different elements concerning the proposal set out in Annex 1 to this document have to be addressed separately.

##### **Time period, opting out and voting (Article 34 § 3)**

*Time period.* Many Member States expressed the view that the time frame should be three years or at least three years. It is important to note that the three year term also corresponds to the periodicity of the General Assembly. Moreover, some Member States consider that the General Assembly should be given some flexibility in taking a decision on the date of entry into force of modifications, but this date should not be less than three years from the date of adoption. The possibility of deferring entry into force may be used, particularly if an appendix is revised comprehensively. The decision to defer the entry into force of modifications should be taken by the same majority as the decision on modifications.

*Opting-out.* In order to respect national sovereignty, it should be ensured that the Member States may opt out. This right is already enshrined in the Convention, both in case of modifications adopted by the General Assembly and by the Revision Committee.

*Voting.* Voting rules should not be changed, so modifications may only be adopted if a majority of Member States are in favour (Article 14 § 6 of COTIF).

##### **Declarations of non-approval (Article 34 §§ 4 and 6)**

Under the proposed procedure, Member States would not make notifications concerning the approval of amendments to the Appendices but only declarations of non-approval or withdrawal of such declarations. The paragraphs have to be modified in order to reflect the revised procedure.

##### **Entry into force conditions (Article 34 § 5)**

Unlike the modifications to the base Convention, all the conditions for the entry into force of the modifications to the appendices are now defined in the proposed paragraph 3.

**Legal consequences of declaration of non-approval (Article 34 § 7)**

One of the Member States asked whether the entire appendix would then be suspended for that Member State or whether only particular provisions would be suspended in case of a declaration of non-approval. It is a long established COTIF principle that only one version of COTIF, including the appendices, should be applicable at a given time. This approach ensures uniform railway law and precludes its fragmentation. The practice of other Conventions has proved that application of different versions of a treaty leads to fragmentation of the law and thus practical difficulties.

**V. PROPOSAL FOR DECISION**

1. In accordance with Article 33 § 2 of COTIF the General Assembly adopts the amendment to Article 34 §§ 3 to 6 of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) as set out in Annex 1 to document SG-18035-AG 13/10 [and as amended at the meeting].
2. The General Assembly approves the modifications to the Explanatory Report as set out in Annex 2 to document SG-18035-AG 13/10 [and as amended at the meeting].
3. The General Assembly requests the Secretary General to amend, where relevant, the Explanatory Report to reflect the preparatory work and the discussion that took place at its 13<sup>th</sup> session concerning the amendment of the procedure for revising COTIF.
4. The General Assembly mandates the Secretary General, upon request and whenever possible, to assist Member States in the accomplishment of national procedures that are necessary with regard to modifications adopted by the General Assembly.







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**Assemblée générale  
Generalversammlung  
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## **13<sup>E</sup> SESSION / 13. TAGUNG / 13<sup>TH</sup> SESSION**

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**Révision partielle de la Convention** – Projet de texte (Modification de la procédure de révision de la COTIF)

**Teilrevision des Grundübereinkommens** – Textentwürfe (Änderung des Verfahrens zur Revision des COTIF)

**Partial revision of the Base Convention** – Draft texts (Amendment of the procedure for revising COTIF)

**Proposition de modification**

L'article 34, § 3 et 6, de la Convention relative aux transports internationaux ferroviaires (COTIF) du 9 mai 1980 telle que modifiée par le protocole du 3 juin 1999 (Protocole de Vilnius) est modifié comme suit :

**Änderungsvorschlag**

Artikel 34 §§ 3 und 6 des Übereinkommens über den internationalen Eisenbahnverkehr (COTIF) vom 9. Mai 1980 in der Fassung des Protokolls vom 3. Juni 1999 (Protokoll von Vilnius) erhält folgenden Wortlaut:

**Proposal for text modifications**

Article 34 §§ 3 to 6 of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) read as follows:

**Article 34  
Décisions de l'Assemblée générale**

*[Le § 1 et le § 2 ne sont pas modifiés, mais reproduits à titre purement informatif.]*

- § 1 Les modifications de la Convention décidées par l'Assemblée générale sont notifiées par le Secrétaire général aux Etats membres.
- § 2 Les modifications de la Convention proprement dite, décidées par l'Assemblée générale, entrent en vigueur, douze mois après leur approbation par les deux tiers des Etats membres, pour tous les Etats membres à l'exception de ceux qui, avant leur entrée en vigueur, ont fait une déclaration aux termes de laquelle ils n'approuvent pas lesdites modifications.
- § 3 Les modifications des Appendices à la Convention, décidées par l'Assemblée générale, entrent en vigueur, ~~douze-trente-six~~ mois après leur notification par le Secrétaire général

**Artikel 34  
Beschlüsse der Generalversammlung**

*[§§ 1 und 2 nicht geändert (lediglich zu Informationszwecken wiedergegeben)]*

- § 1 Die von der Generalversammlung beschlossenen Änderungen des Übereinkommens werden den Mitgliedstaaten vom Generalsekretär mitgeteilt.
- § 2 Die von der Generalversammlung beschlossenen Änderungen des Übereinkommens selbst treten zwölf Monate nach Genehmigung durch zwei Drittel der Mitgliedstaaten für alle Mitgliedstaaten in Kraft mit Ausnahme der Mitgliedstaaten, die vor Inkrafttreten der Änderungen erklären, dass sie ihnen nicht zustimmen.
- § 3 Die von der Generalversammlung beschlossenen Änderungen der Anhänge zum Übereinkommen treten ~~zwölf-sechunddreißig~~ Monate nach Mitteilung der Änderungen Genehmigung durch

**Article 34  
Decisions of the General Assembly**

*[§§ 1 and 2 not modified (presented for information purposes only)]*

- § 1 Modifications of the Convention decided upon by the General Assembly shall be notified to the Member States by the Secretary General.
- § 2 Modifications of the Convention itself, decided upon by the General Assembly, shall enter into force for all Member States twelve months after their approval by two-thirds of the Member States with the exception of those which, before the entry into force, have made a declaration in terms that they do not approve such modifications.
- § 3 Modifications of the Appendices to the Convention, decided upon by the General Assembly, shall enter into force for all Member States ~~twelve-thirty-six~~ months after their

~~approbation par la moitié des Etats n'ayant pas fait une déclaration conformément à l'article 42, § 1, première phrase,~~ pour tous les Etats membres à l'exception de ceux qui, avant leur entrée en vigueur, ont fait une déclaration aux termes de laquelle ils n'approuvent pas lesdites modifications et de ceux qui ont fait une déclaration conformément à l'article 42, § 1, première phrase. L'Assemblée générale peut décider, à la majorité prévue à l'article 14, § 6, pour les décisions concernant les propositions portant modification à la Convention, de différer l'entrée en vigueur des modifications.

§ 4 Les Etats membres adressent, au Secrétaire général, leurs notifications concernant l'approbation des modifications de la Convention proprement dite décidées par l'Assemblée générale ainsi que leurs déclarations aux termes desquelles ils n'approuvent pas elles modifications à la Convention proprement dite ou à ses Appendices. Le Secrétaire général en informe les autres ~~E~~Etats membres.

§ 5 Le délai visé au ~~§ 2 et 3~~ § 2 court à compter du jour de la notification du Secrétaire général, que les conditions pour l'entrée en vigueur des modifications sont remplies.

§ 6 L'Assemblée générale peut spécifier, au moment de l'adoption d'une modification, que celle-ci est d'une portée telle que tout Etat membre qui aura fait une déclaration visée au § 2 ou au § 3 et qui n'aura pas approuvé la modification ou retiré sa déclaration dans le délai de dix-huit mois à dater de son entrée en vigueur cessera, à

~~die Hälfte der Mitgliedstaaten, die eine Erklärung gemäß Artikel 42 § 1 Satz 1 nicht abgegeben haben, durch den Generalsekretär an die Mitgliedstaaten~~ für alle Mitgliedstaaten in Kraft, mit Ausnahme derjenigen Mitgliedstaaten, die vor Inkrafttreten der Änderungen erklären, dass sie ihnen nicht zustimmen, sowie derjenigen Mitgliedstaaten, die eine Erklärung gemäß Artikel 42 § 1 Satz 1 abgegeben haben. Die Generalversammlung kann mit der in Artikel 14 § 6 für Beschlüsse zur Änderung des Übereinkommens vorgesehenen Mehrheit beschließen, das Inkrafttreten der Änderungen aufzuschieben.

§ 4 Die Mitgliedstaaten richten ihre Mitteilungen über die Genehmigung der von der Generalversammlung beschlossenen Änderungen des Übereinkommens selbst sowie ihre Erklärungen, wonach sie ~~diesen~~ Änderungen am Übereinkommen selbst oder seinen Anhängen nicht zustimmen, an den Generalsekretär. Er unterrichtet hierüber die übrigen Mitgliedstaaten.

§ 5 Die in §§ 2 ~~und 3~~ genannte Frist berechnet sich ab dem Tag der Mitteilung des Generalsekretärs über das Vorliegen der Voraussetzungen für das Inkrafttreten der Änderungen.

§ 6 Die Generalversammlung kann bei der Beschlussfassung über eine Änderung feststellen, dass diese Änderung von solcher Tragweite ist, dass für jeden Mitgliedstaat, der eine Erklärung gemäß § 2 oder § 3 abgibt und der die Änderung nicht innerhalb von achtzehn Monaten nach ihrem Inkrafttreten genehmigt und/oder seine Erklärung zurückzieht, nach Ablauf dieser Frist

~~notification by the Secretary General approval by half of the Member States which have not made a declaration pursuant to Article 42 § 1, first sentence,~~ with the exception of those which, before the entry into force, have made a declaration in terms that they do not approve such modifications and with the exception of those which have made a declaration pursuant to Article 42 § 1, first sentence. The General Assembly may decide, by the majority provided for under Article 14 § 6 for taking decisions about proposals aiming to modify the Convention, to defer the entry into force of modifications.

§ 4 The Member States shall address their notifications concerning the approval of modifications of the Convention itself decided upon by the General Assembly as well as their declarations in terms that they do not approve ~~such~~ modifications of the Convention itself or its Appendices, to the Secretary General. The Secretary General shall give notice of them to the other Member States.

§ 5 The period referred to in §§ 2 ~~and 3~~ shall run from the day of the notification by the Secretary General that the conditions for the entry into force of the modifications are fulfilled.

§ 6 The General Assembly may specify, at the time of adoption of a modification, that it is such that any Member State which will have made a declaration pursuant to § 2 or § 3 and which will not have approved the modification and/or withdrawn its declaration within the period of eighteen months running from its entry into force

l'expiration de ce délai, d'être Etat membre de l'Organisation.

*[Le § 7 n'est pas modifié, mais reproduit à titre purement informatif.]*

§ 7 Lorsque les décisions de l'Assemblée générale concernent les Appendices à la Convention, l'application de l'Appendice concerné est suspendue, dans son intégralité, dès l'entrée en vigueur des décisions, pour le trafic avec et entre les Etats membres qui se sont opposés, conformément au § 3, aux décisions dans les délais impartis. Le Secrétaire général notifie aux Etats membres cette suspension ; elle prend fin à l'expiration d'un mois à compter de la date à laquelle le Secrétaire général a notifié aux autres Etats membres la levée de l'opposition.

die Mitgliedschaft in der Organisation beendet ist.

*[\$ 7 nicht geändert (lediglich zu Informationszwecken wiedergegeben)]*

§ 7 Soweit Beschlüsse der Generalversammlung Änderungen der Anhänge zum Übereinkommen betreffen, ist die Anwendung des jeweiligen Anhangs insgesamt im Verkehr mit und zwischen den Mitgliedstaaten, die den Beschlüssen rechtzeitig gemäß § 3 widersprochen haben, mit dem Inkrafttreten der Beschlüsse ausgesetzt. Der Generalsekretär teilt diese Aussetzung den Mitgliedstaaten mit; sie verliert ihre Wirkung nach Ablauf eines Monats, gerechnet von dem Tag, an dem der Generalsekretär die Rücknahme eines solchen Widerspruchs den übrigen Mitgliedstaaten mitgeteilt hat.

will cease, on the expiration of this period, to be a Member State of the Organisation.

*[\$ 7 not modified (presented for information purposes only)]*

§ 7 When decisions of the General Assembly concern Appendices to the Convention, the application of the Appendix in question shall be suspended, in its entirety, from the entry into force of the decisions, for traffic with and between the Member States which have, in accordance with § 3, opposed the decisions within the period allowed. The Secretary General shall notify the Member States of that suspension; it shall come to an end on the expiration of a month from the day on which the Secretary General notified the other Member States of the withdrawal of opposition.



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**Assemblée générale  
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**Révision partielle de la Convention** – Projet de texte pour le Rapport explicatif  
(Modification de la procédure de révision de la COTIF)

**Teilrevision des Grundübereinkommens** – Textentwürfe für die Erläuternden  
Bemerkungen (Änderung des Verfahrens zur Revision des COTIF)

**Partial revision of the Base Convention** – Draft texts for the Explanatory Report  
(Amendment of the procedure for revising COTIF)

**Projet de texte  
pour le Rapport explicatif**

Le Rapport explicatif dans la teneur du 30.9.2015 est modifié comme suit :

**Convention relative aux transports internationaux  
ferroviaires  
(COTIF)**

**du 9 mai 1980**

**dans la teneur du Protocole de modification du 3 juin  
1999**

**Rapport explicatif**

[...]

**Titre VI  
Modification de la Convention**

Le titre VI (art. 33 à 35) correspond, avec des modifications toutefois importantes, au titre V (art. 19 à 21) de la COTIF 1980.

**Textentwürfe  
für die Erläuternden Bemerkungen**

Die Erläuternden Bemerkungen in der Fassung vom 30.09.2015 werden wie folgt geändert:

**Übereinkommen über den internationalen  
Eisenbahnverkehr  
(COTIF)**

**vom 9. Mai 1980**

**in der Fassung des Änderungsprotokolls vom 3.  
Juni 1999**

**Erläuternde Bemerkungen**

[...]

**Titel VI  
Änderung des Übereinkommens**

Titel VI (Art. 33 bis 35) entspricht - allerdings mit wesentlichen Änderungen - dem Titel V (Art. 19 bis 21) COTIF 1980.

**Draft  
texts for the Explanatory Report**

The Explanatory Report in its version of 30.09.2015 is amended as follows:

**Convention concerning International Carriage by  
Rail  
(COTIF)**

**of 9 May 1980**

**in the version of the Protocol of Modification of 3  
June 1999**

**Explanatory Report**

[...]

**Title VI  
Modification of the Convention**

Title VI (Articles 33 to 35) corresponds - but with significant amendments - to Title V (Articles 19 to 21) of COTIF 1980.

**Article 33  
Compétence**

[§ 1 et 2 non modifiés]

3. En qui concerne les modifications soumises à la procédure simplifiée (à savoir les modifications adoptées par les commissions), le projet du Secrétariat du 30 août 1996 avait prévu d'étendre la compétence de la Commission de révision à toutes les dispositions des RU CIV et RU CIM ainsi que des nouveaux appendices D (RU CUV – droit des véhicules) et E (RU CUI – utilisation de l'infrastructure). Cet élargissement de compétence avait pour but de permettre une adaptation plus rapide à la fois du droit des transports et des deux nouveaux appendices nouvellement créés aux modifications économiques et juridiques. Le projet du Secrétariat prévoyait ~~avait~~ par ailleurs prévu de ne plus soumettre obligatoirement qu'il n'était plus nécessaire de soumettre les décisions de l'Assemblée générale à une procédure de ratification.
4. Lors des délibérations Dans le cadre de la Commission de révision, il est apparu qu'eu égard au droit constitutionnel de nombreux États membres, une simplification aussi étendue de la procédure de révision ne pouvait être obtenue ni pour la Convention même ni pour les appendices (procès-verbal de la 11<sup>e</sup> session, p. 19-28). Les dispositions concernant les fondements de la responsabilité, la charge de la preuve, le champ d'application, les dommages-intérêts, la

**Artikel 33  
Zuständigkeiten**

[§§ 1 und 2 nicht geändert]

3. Der Entwurf des Sekretariates vom 30. August 1996 hatte vorgesehen, die Zuständigkeit des Revisionsausschusses für Änderungen im sogenannten vereinfachten Verfahren (d. h. von den Ausschüssen angenommene Änderungen) auf alle Bestimmungen der ER CIV und der ER CIM sowie der neuen Anhänge D (ER CUV - Wagenrecht) und E (ER CUI - Nutzung der Eisenbahninfrastruktur) auszudehnen. Diese Kompetenzerweiterung sollte eine schnellere Anpassung sowohl des Transportrechtes als auch und der beiden neuen geschaffenen Anhänge an eingetretene wirtschaftliche und rechtliche Veränderungen erlauben. Darüber hinaus hatte der Entwurf des Sekretariates vorgesehen, dass die Beschlüsse der Generalversammlung nicht mehr zwingend einem Ratifikationsverfahren unterworfen werden sollten müssen.
4. Bei den Beratungen des Im Revisionsausschusses stellte sich heraus, dass eine so weitgehende Vereinfachung des Revisionsverfahrens mit Rücksicht auf die Verfassungsrechtslage in zahlreichen Mitgliedstaaten weder für das Übereinkommen selbst noch für die Anhänge erreicht werden konnte (Niederschrift 11. Tagung, S. 19-28). Vom vereinfachten Verfahren (d. h. von den Ausschüssen angenommene Änderungen) der

**Article 33  
Competence**

[Paragraphs 1 and 2 not modified]

3. With regard to amendments subject to the simplified procedure (i.e. modifications adopted by the Committees), the Secretariat draft of 30 August 1996 ~~had~~ made provision to extend the competence of the Revision Committee to all the provisions of the CIV Uniform Rules and CIM Uniform Rules, as well as to the new Appendices D (CUV Uniform Rules - vehicle law) and E (use of the infrastructure). The objective of this broadening of competence was to allow ~~both the~~ transport law and the two ~~newly created~~ Appendices to be ~~more rapidly~~ adapted more rapidly to economic and legal changes. In addition, the Secretariat draft ~~had~~ provided that ~~the~~ decisions of the General Assembly ~~should~~ need no longer be ~~mandatorily~~ subjected to a ratification procedure.
4. In the course of the deliberations of At the Revision Committee, it became evident that, in view of the constitutional law of numerous Member States, it is not possible to achieve such an extensive simplification of the revision procedure, for ~~either~~ the Convention itself or for the Appendices (Report on the 11<sup>th</sup> session, pp. 19-28). The provisions concerning the bases of liability, the burden of proof, the scope of application, compensatory damages, the

prescription et l'extinction des droits ainsi que le for, ont été exclues de la procédure de révision simplifiée, utilisée pour les modifications adoptées par les commissions (procès-verbal de la 19<sup>e</sup> session, p. 75/76 ; procès-verbal de la 21<sup>e</sup> session, p. 36-38 et procès-verbal de la 5<sup>e</sup> Assemblée générale, p. 48-51).

[§ 5 à 7 non modifiés]

**Article 34**  
**Décisions de l'Assemblée générale**

1. L'article 34 renonce en partie au système de l'article 20, § 1 et 2 de la COTIF 1980. Les expériences faites avec la COTIF ~~du 9 mai~~-1980, entrée en vigueur seulement le 1<sup>er</sup> mai 1985, et le Protocole du 20 décembre 1990, entré en vigueur seulement le 1<sup>er</sup> novembre 1996, justifient cette modification. Entre l'adoption et l'entrée en vigueur, presque cinq ans se sont écoulés dans le premier cas et presque six ans, dans le second cas, le nombre nécessaire de ratifications, d'adoptions ou d'approbations n'ayant pu être obtenu dans de meilleurs délais.
2. Le projet du Secrétariat du 30 août 1996 ~~avait prévu~~prévoyait une entrée en vigueur automatique des modifications de la Convention décidées par l'Assemblée générale pour les États

Änderung durch den Revisionsausschuss wurden die Bestimmungen über die Grundlagen der Haftung, über die Beweislast, über den Anwendungsbereich, über die Schadenersatzleistungen, über die Verjährung und das Erlöschen von Ansprüchen sowie über Gerichtsstandbestimmungen ausgenommen (Niederschrift 19. Tagung, S. 75/76; Niederschrift 21. Tagung, S. 36-38 und Niederschrift 5. Generalversammlung, S. 48-51).

[§§ 5 bis 7 nicht geändert]

**Artikel 34**  
**Beschlüsse der Generalversammlung**

1. Artikel 34 stellt eine teilweise Abkehr vom System des Artikels 20 §§ 1 und 2 COTIF 1980 dar. Die Erfahrungen mit der Inkraftsetzung des COTIF ~~vom 9. Mai~~-1980 - erst zum 1. Mai 1985 - und mit der Inkraftsetzung des Protokolls vom 20. Dezember 1990 - erst zum 1. November 1996 - rechtfertigen diese Änderung. Zwischen der Verabschiedung und dem Inkrafttreten lagen im ersten Fall fast fünf, im zweiten Fall fast sechs Jahre, weil die erforderliche Zahl von Ratifikationen, Annahmen oder Genehmigungen in kürzerer Frist nicht erreicht wurde.
2. Der Entwurf des Sekretariates vom 30. August 1996 hatte ein automatisches Inkrafttreten der von der Generalversammlung beschlossenen Änderungen des Übereinkommens für die

limitation and extinguishment of rights and the place of jurisdiction have been excluded from the simplified revision procedure (i.e. modifications adopted by the Committees) (Report on the 19<sup>th</sup> session, p. 75/76; Report on the 21<sup>st</sup> session, pp. 36 - 38 and Report on the 5<sup>th</sup> General Assembly, pp. 48-51).

[Paragraphs 5 to 7 not modified]

**Article 34**  
**Decisions of the General Assembly**

1. Article 34 partially abandons the system according to Article 20, §§ 1 and 2 of COTIF 1980. This amendment is justified by the experience with ~~the COTIF of 9 May~~-1980, which did not come into force until 1 May 1985, and with the Protocol of 20 December 1990, which did not come into force until 1 November 1996. In the first case, almost five years elapsed between adoption and entry into force, and almost six years in the second case, due to the fact that it had not been possible to achieve the necessary number of ratifications, adoptions or approvals within a shorter period.
2. The Secretariat draft of 30 August 1996 ~~had~~ provided for amendments to the Convention decided by the General Assembly coming into force automatically for States which did not



~~n'ayant pas déclaré, ne s'étant pas opposé à ces modifications~~ avant l'expiration d'un délai prévu pour l'entrée en vigueur, ~~qu'ils s'opposaient aux modifications~~. Une simplification aussi étendue de la procédure de révision en ce qui concerne les décisions de l'Assemblée générale n'a pas remporté la majorité nécessaire (procès-verbal de la 11<sup>e</sup> session, p. 23/24 ; procès-verbal de la 4<sup>e</sup> Assemblée générale, p. 58/59, ligne directrice 8.1 ; procès-verbal de la 14<sup>e</sup> session, p. 67–69 ; procès-verbal de la 21<sup>e</sup> session, p. 41/42). ~~L'on a finalement adopté une solution selon laquelle les modifications de la Convention proprement dite décidées par l'Assemblée générale entrent en vigueur douze mois après leur approbation par les deux tiers des États membres pour tous les États membres à l'exception de ceux qui ont fait une déclaration aux termes de laquelle ils n'approuvent pas lesdites modifications (§ 2). Dans le cas des modifications des appendices décidées par l'Assemblée générale, l'approbation par la moitié des États membres est suffisante. Le délai de douze mois demeure inchangé (§ 3).~~

3. La procédure de modification des appendices a été réexaminée à la 26<sup>e</sup> session de la Commission de révision et par la 13<sup>e</sup> Assemblée générale. Compte tenu des larges évolutions réglementaires régionales et nationales, l'entrée en vigueur à une date impartie des modifications du droit ferroviaire unifié consacré dans les appendices a été soutenue et l'Assemblée générale a adopté des modifications de l'article 34, § 3 à 6.

Staaten vorgesehen, die ~~den Änderungen nicht~~ vor Ablauf einer für das Inkrafttreten vorgesehenen Frist ~~nicht~~ ausdrücklich ~~erklären/widersprechen, dass sie den Änderungen nicht zustimmen~~. Eine so weit gehende Vereinfachung des Revisionsverfahrens bei Beschlüssen der Generalversammlung erwies sich jedoch als nicht mehrheitsfähig (Niederschrift 11. Tagung, S. 23/24; Niederschrift 4. Generalversammlung, S. 58/59; Leitlinie 8.1; Niederschrift 14. Tagung S. 67-69; Niederschrift 21. Tagung, S. 41/42). ~~Angenommen wurde schließlich eine Lösung, wonach die von der Generalversammlung beschlossenen Änderungen des Übereinkommens selbst zwölf Monate nach der Genehmigung durch zwei Drittel der Mitgliedstaaten für alle Mitgliedstaaten in Kraft treten mit Ausnahme derjenigen, die erklären, dass sie ihnen nicht zustimmen (§ 2). Bei von der Generalversammlung beschlossenen Änderungen der Anhänge genügt die Genehmigung durch die Hälfte der Mitgliedstaaten. Die Frist von 12 Monaten ist die gleiche (§ 3).~~

3. Das Verfahren zur Änderung der Anhänge wurde bei der 26. Tagung des Revisionsausschusses und der 13. Tagung der Generalversammlung neuerlich geprüft. Unter Berücksichtigung der intensiven nationalen und regionalen rechtlichen Entwicklungen wurde das rechtzeitige Inkrafttreten von Änderungen des in den Anhängen enthaltenen einheitlichen Eisenbahnrechts unterstützt und die Generalversammlung nahm Änderungen des Artikels 34 §§ 3 bis 6 an.

~~declare opposition to oppose~~ the amendments prior to the expiry of a period set for their entry into force. Such an extensive simplification of the revision procedure in respect of the decisions of the General Assembly did not achieve the necessary majority (Report on the 11<sup>th</sup> session, p. 23/24; Report on the 4<sup>th</sup> General Assembly, p. 58/59, Guideline 8.1; Report on the 14<sup>th</sup> session, pp. 67 B 69; Report on the 21<sup>st</sup> session, p. 41/42). ~~A solution was finally adopted according to which the amendments to the Convention proper decided by the General Assembly come into force, for all Member States except those which have made a declaration to the effect that they do not approve the said amendments (§ 2), twelve months after their approval by two thirds of the Member States. In the case of amendments to the Appendices decided by the General Assembly, approval by half of the Member States is sufficient. The period of twelve months remains unchanged (§ 3).~~

3. The procedure for amendments to the Appendices was reconsidered at the 26<sup>th</sup> Revision Committee and 13<sup>th</sup> General Assembly. Taking into account intensive national and regional regulatory developments, the timely entry into force on a specified date of amendments to unified railway law, as set out in the Appendices, was supported and the General Assembly adopted modifications to Article 34 §§. 3 to 6.

4. Le § 2 prévoit que L'on a finalement adopté une solution selon laquelle les modifications de la Convention proprement dite décidées par l'Assemblée générale entrent en vigueur douze mois après leur approbation par les deux tiers des États membres pour tous les États membres à l'exception de ceux qui ont fait une déclaration aux termes de laquelle ils n'approuvent pas lesdites modifications (§ 2). Dans le cas des modifications des appendices décidées par l'Assemblée générale, l'approbation par la moitié des États membres est suffisante. Le délai de douze mois demeure inchangé (§ 3). Le terme « approbation » est ici un terme générique désignant tout acte exprimant le consentement à être lié par les modifications, comme par exemple les instruments d'approbation, d'acceptation ou de ratification.

Les déclarations d'approbation ne peuvent être faites et les déclarations de non-approbation faites et retirées que par les « autorités qualifiées » (chefs d'État, chefs de gouvernement et ministres des affaires étrangères) ou d'autres autorités à condition qu'elles présentent des pleins pouvoirs au Dépositaire.

5. Le § 3 établit que les modifications des appendices adoptées par l'Assemblée générale entrent automatiquement en vigueur trente-six mois après leur notification par le Secrétaire général pour tous les États membres à l'exception de ceux qui, avant l'entrée en vigueur, ont fait une déclaration aux termes de

4. § 2 schreibt vor, dass Angenommen wurde schließlich eine Lösung, wonach die von der Generalversammlung beschlossenen Änderungen des Übereinkommens selbst zwölf Monate nach der Genehmigung durch zwei Drittel der Mitgliedstaaten für alle Mitgliedstaaten in Kraft treten, mit Ausnahme derjenigen, die erklären, dass sie ihnen nicht zustimmen (§ 2). Bei von der Generalversammlung beschlossenen Änderungen der Anhänge genügt die Genehmigung durch die Hälfte der Mitgliedstaaten. Die Frist von 12 Monaten ist die gleiche (§ 3). Der Begriff ‚Genehmigung‘ steht dabei als Oberbegriff für jeglichen Akt, mit dem die Zustimmung zum Ausdruck gebracht wird, durch die Änderungen gebunden zu sein; es sind dies beispielsweise Genehmigungs-, Annahme- oder Ratifikationsurkunden.

Nur ‚Ermächtigungsautoritäten‘ (Staats- und Regierungschefs oder Minister für auswärtige Angelegenheiten) oder gehörig bevollmächtigte Personen, vorausgesetzt die Vollmacht wurde beim Depositar hinterlegt, können Erklärungen über die Genehmigung abgegeben und Erklärungen über die Nichtgenehmigung abgeben oder zurücknehmen.

5. § 3 legt fest, dass von der Generalversammlung angenommene Änderungen der Anhänge sechsunddreißig Monate nach Mitteilung der Änderungen durch den Generalsekretär für alle Mitgliedstaaten automatisch in Kraft treten, mit Ausnahme derjenigen Mitgliedstaaten, die vor Inkrafttreten der Änderungen erklären, dass sie

4. § 2 prescribes that A solution was finally adopted according to which the amendments to the Convention ~~properly~~ decided by the General Assembly come into force, for all Member States except those which have made a declaration to the effect that they do not approve the said amendments (§ 2), twelve months after their approval by two-thirds of the Member States. ~~In the case of amendments to the Appendices decided by the General Assembly, approval by half of the Member States is sufficient. The period of twelve months remains unchanged (§ 3). The term ‘approval’ is a generic term covering any act expressing consent to be bound by the modifications, such as instruments of approval, acceptance or ratification.~~

Declarations of approval may only be made, and declarations of non-approval may only be made and withdrawn, by ‘Qualified Authorities’ (Heads of State, Heads of Government or Ministers for Foreign Affairs) or other authorities on condition that full powers are submitted to the Depository.

5. § 3 says that amendments to the Appendices adopted by the General Assembly enter into force automatically for all Member States thirty-six months after their notification by the Secretary General, with the exception of those which, before the entry into force, have made a declaration in terms that they do not approve such

laquelle ils n'approuvent pas lesdites modifications et de ceux qui ont fait une déclaration conformément à l'article 42, § 1, première phrase.

Le délai entre l'adoption des modifications et leur entrée en vigueur devrait être raisonnable afin de permettre l'exécution des procédures nationales et de donner le temps au secteur privé de préparer l'application des nouvelles règles. En règle générale, le délai de trois ans, qui correspond également à la périodicité de l'Assemblée générale, a été jugé raisonnable et suffisant. Ces trois années pouvant ne pas suffire pour des modifications de grande ampleur, l'Assemblée générale peut décider d'un délai plus long.

Les déclarations de non-approbation ne peuvent être faites et retirées que par les « autorités qualifiées » (chefs d'État, chefs de gouvernement et ministres des affaires étrangères) ou d'autres autorités à condition qu'elles présentent des pleins pouvoirs.

6. Dans le cas des modifications adoptées par l'Assemblée générale et la Commission de révision, les § 2 et 3 consacrent le droit des États membres de choisir de ne pas être liés, en émettant une déclaration de non-approbation. Les conséquences juridiques sont décrites à l'article 34, § 6 et 7.

ihnen nicht zustimmen, sowie derjenigen Mitgliedstaaten, die eine Erklärung gemäß Artikel 42 § 1 Satz 1 abgegeben haben.

Die Zeitspanne zwischen Annahme einer Änderung und ihrem Inkrafttreten sollte hinreichend lang sein, so dass nationale Verfahren abgeschlossen werden können und der Privatsektor sich auf die Anwendung neuer Regeln vorbereiten kann. Allgemein wurde die Dreijahresfrist, die auch der Periodizität der Generalversammlung entspricht, als angemessen und ausreichend angesehen. Da drei Jahre für umfassende Änderungen möglicherweise zu kurz sein können, kann die Generalversammlung eine längere Frist beschließen.

Nur ‚Ermächtigungsautoritäten‘ (Staats- und Regierungschefs oder Minister für auswärtige Angelegenheiten) oder gehörig bevollmächtigte Personen können Erklärungen über die Nichtgenehmigung abgeben oder zurücknehmen.

6. Bei von der Generalversammlung und dem Revisionsausschuss beschlossenen Änderungen sehen die §§ 2 und 3 das Recht der Mitgliedstaaten vor, durch eine Erklärung über die Nichtgenehmigung „auszusteigen“. Die rechtlichen Folgen dieser Maßnahme sind in Artikel 34 §§ 6 und 7 dargelegt.

modifications and with the exception of those which have made a declaration pursuant to Article 42 § 1, first sentence.

The time between adoption of the modifications and their entry into force should be reasonable in order to allow national procedures to be completed and give the private sector time to prepare for the application of new rules. As a general rule, the three year time period, which also corresponds to the periodicity of the General Assembly, was considered as reasonable and sufficient. As three years may not be sufficient for comprehensive amendments, the General Assembly may decide on a longer period.

Declarations of non-approval may only be made and withdrawn, by ‘Qualified Authorities’ (Heads of State, Heads of Government or Ministers for Foreign Affairs) or other authorities on condition that full powers are submitted.

6. In case of modifications adopted by the General Assembly and the Revision Committee, §§ 2 and 3 enshrine the right of Member States to opt out by issuing a declaration of non-approval. The legal consequences of opting out are described in Article 34, §§ 6 and 7.

37. ~~L'on a nouvellement introduit la possibilité pour l'Assemblée générale de spécifier, a~~ Au moment de l'adoption d'une modification, ~~l'Assemblée générale peut spécifier~~ que celle-ci est d'une nature telle que les États qui ne peuvent pas accepter cette modification, devront sortir de l'Organisation (§ 6). La conséquence juridique de la suspension de l'application des Règles uniformes, jusqu'alors prévue à l'article 20, § 3, de la COTIF 1980, a été maintenue, dans la mesure où les décisions de l'Assemblée générale concernent des appendices à la Convention (§ 7). Ces deux conséquences juridiques ont pour objet de maintenir l'unité juridique en trafic international ferroviaire (procès-verbal de la 21<sup>e</sup> session, p. 44-46). Ce n'est certes pas une solution idéale, mais elle permet d'éviter une incertitude juridique, comme celle qui existe en trafic international aérien en raison des différentes versions de la Convention de Varsovie en vigueur.

37. ~~Neu geschaffen wurde die Möglichkeit, dass die Generalversammlung b~~ Bei der Beschlussfassung über eine Änderung ~~kann die Generalversammlung feststellen~~ kann, dass diese Änderung von solcher Tragweite ist, dass Staaten, die solche Änderungen nicht annehmen können, aus der Organisation ausscheiden müssen (§ 6). Die bisher in Artikel 20 § 3 COTIF 1980 vorgesehene Rechtsfolge der Aussetzung der Anwendung von einheitlichen Rechtsvorschriften wurde beibehalten, soweit Beschlüsse der Generalversammlung Anträge zum Übereinkommen betreffen (§ 7). Beide Rechtsfolgen dienen der Aufrechterhaltung der Rechtseinheit im internationalen Eisenbahnverkehr (Niederschrift 21. Tagung, S. 44-46). Dies stellt zwar keine Ideallösung dar, jedoch wird eine Rechtsunsicherheit, wie sie im internationalen Luftverkehr auf Grund der unterschiedlichen in Kraft befindlichen Fassungen des Warschauer Abkommens herrscht, vermieden.

37. ~~A newly introduced possibility is for~~ When an amendment is adopted, the General Assembly ~~to~~ may specify that the amendment in question is of such a nature that those States which are unable to accept that amendment must leave the Organisation (§ 6). The legal consequence of the suspension of the application of the Uniform Rules, previously provided for by Article 20, § 3 of COTIF 1980, has been retained insofar as the decisions of the General Assembly concern the Appendices to the Convention (§ 7). The purpose of these two legal consequences is to maintain legal unity in international rail traffic (Report on the 21<sup>st</sup> session, pp. 44-46). It is granted that this is not an ideal solution, but it helps avoid legal uncertainty of the type that exists in international air traffic due to the different versions of the Warsaw Convention that are in force.