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Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr
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New Appendix H to COTIF

Proposal for modification of the Convention and of the Explanatory Report

CIT position paper



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New Appendix H to COTIF

Dear Secretary General

We would like to thank you for the opportunity to comment on the documents that we received from the OTIF Secretariat on the New Appendix H regarding the safe operation of trains in international traffic (ref. SG-18039-AG 13/14.1), which will be submitted to the OTIF General Assembly on 25 and 26 September 2018.

The International Rail Transport Committee (“[CIT](#)”) in general welcomes the idea of the New Appendix H to promote the interoperability of the railway system beyond the EU.

However the CIT would like to draw attention on Article 7 (safety management and the operation of trains) of the New Appendix H.

Indeed, the CIT is concerned by the fact that Article 7 § 3 obliges infrastructure managers and railway undertakings to ensure, through cooperation, that the trains under their responsibility in international traffic operate safely. This new Appendix H goes beyond the wording in the EU Rail Safety Directive 2016/798 in this regard (see especially Recital 7 and Article 4, paragraph 3 (a)).

The CIT is aware that cooperation between infrastructure managers and railway undertakings can be necessary to operate trains safely, but only “where appropriate” as European legislation says.

Moreover the wording of § 3 provokes uncertainty with regard to the precise division of tasks and responsibilities between railway undertakings and infrastructure managers in relation to safety. The CIT reckons that this may give rise to disputes over liability in case of accidents.

Therefore the CIT proposes to delete § 3 of Article 7 and amend § 2 as follows:

*Article 7
Safety management and the operation of trains*

§ 1 Railway undertakings shall operate trains in international traffic only within the area of operation specified in their Safety Certificates.

§ 2 Infrastructure managers and railway undertakings involved in the operation of trains in international traffic shall control all safety risks associated with their activities and shall in this respect cooperate where appropriate with each other.

~~*§ 3 Infrastructure managers and railway undertakings involved in the operation of trains in international traffic shall cooperate to ensure that trains in international traffic under their responsibility are operated safely.*~~



§ 34 Infrastructure managers and railway undertakings involved in the operation of trains in international traffic shall establish their safety management system and monitor its correct application in accordance with these Uniform Rules.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C. Brand'.

Cesare Brand
Secretary General

A handwritten signature in blue ink, appearing to read 'N. Scherf'.

Nina Scherf
Senior Legal Adviser