



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

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**Commission de révision  
Revisionsausschuss  
Revision Committee**

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

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### **Partial revision of COTIF**

Modification of Articles 2, 6, 20, 33 and 35 (modifications relating to the adoption of a new Appendix H)

## I. INTRODUCTION

1. A draft new Appendix H, the Uniform Rules concerning the Safe Operation of Trains in International Traffic (EST UR) is being submitted to the Revision Committee for adoption (see doc. LAW-17131-CR 26/8.1). If this new Appendix is adopted, several provisions of the base Convention will also have to be amended in order to take this new Appendix into account and to establish competences and procedures for modifying it.

## II. PROPOSALS FOR MODIFICATION

### 2. Modification of Article 2 – Aim of the Organisation

Insert a new letter e) in § 1; current letters e) and f) will become letters f) and g); amend the new letter g) to include the new letter e).

#### Article 2 Aim of the Organisation

§ 1 The aim of the Organisation shall be to promote, improve and facilitate, in all respects, international traffic by rail, in particular by

- a) establishing systems of uniform law in the following fields of law:
  - 1) contract of international carriage of passengers and goods in international through traffic by rail, including complementary carriage by other modes of transport subject to a single contract;
  - 2) contract of use of wagons as means of transport in international rail traffic;
  - 3) contract of use of infrastructure in international rail traffic;
  - 4) carriage of dangerous goods in international rail traffic;
- b) contributing to the removal, in the shortest time possible, of obstacles to the crossing of frontiers in international rail traffic, while taking into account special public interests, to the extent that the causes of these obstacles are within the responsibility of States;
- c) contributing to interoperability and technical harmonisation in the railway field by the validation of technical standards and the adoption of uniform technical prescriptions;
- d) establishing a uniform procedure for the technical admission of railway material intended for use in international traffic;
- e) laying down requirements concerning the safe operation of trains in international traffic;**
- e) f)** keeping a watch on the application of all the rules and recommendations established within the Organisation;
- f) g)** developing the systems of uniform law, rules and procedures referred to in letters a) to **e** **f)** taking account of legal, economic and technical developments.

§ 2 The Organisation may

- a) within the framework of the aim referred to in § 1, elaborate other systems of uniform law;
- b) constitute a framework within which the Member States can elaborate other international conventions aiming to promote, improve and facilitate international rail traffic.

**Justification:**

A new system of uniform law, in the sense of Article 2 § 2 COTIF, is being introduced in the form of a new Appendix H in order to support interoperability in terms of complete trains crossing borders. This aim must also be referred to in Article 2 § 1 COTIF.

**3. Modification of Article 6 – Uniform Rules**

Insert a new letter h) in § 1; current letter h) will become letter i).

**Article 6**  
**Uniform Rules**

- § 1 So far as declarations are not made in accordance with Article 42 § 1, first sentence, international rail traffic and admission of railway material to use in international traffic shall be governed by:
- a) the “Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV)”, forming Appendix A to the Convention,
  - b) the “Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM)”, forming Appendix B to the Convention,
  - c) the “Regulation concerning the International Carriage of Dangerous Goods by Rail (RID)”, forming Appendix C to the Convention,
  - d) the “Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic (CUV)”, forming Appendix D to the Convention,
  - e) the “Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI)”, forming Appendix E to the Convention,
  - f) 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)”, forming Appendix F to the Convention,
  - g) the “Uniform Rules concerning Technical Admission of Railway Material used in International Traffic (ATMF)”, forming Appendix G to the Convention,
  - h) the “Uniform Rules concerning the Safe Operation of Trains in International Traffic” (EST), forming Appendix H to the Convention;**
  - ~~h)~~ **i)** other systems of uniform law elaborated by the Organisation pursuant to Article 2 § 2, letter a), also forming Appendices to the Convention.
- § 2 The Uniform Rules, the Regulation and the systems listed in § 1, including their Annexes, shall form an integral part of the Convention.

**Justification:**

Article 6 § 1 COTIF has to be adapted to include the new Appendix in the list of Appendices.

**4. Modification of Article 20 – Committee of Technical Experts**

Amend § 1 letter e) as follows:

**Article 20**  
**Committee of Technical Experts**

§ 1 The Committee of Technical Experts shall:

- a) take decisions, in accordance with Article 5 of the APTU Uniform Rules, about the validation of a technical standard relating to railway material intended to be used in international traffic; [when taking such decisions, the technical standards or certain specific parts of these standards may either be validated or rejected; they may not under any circumstances be modified;]<sup>1</sup>
- b) take decisions, in accordance with Article 6 of the APTU Uniform Rules, about the adoption [or modification]<sup>1</sup> of a uniform technical prescription relating to the construction, operation, maintenance or relating to a procedure concerning railway material intended to be used in international traffic;
- c) keep a watch on the application of technical standards and uniform technical prescriptions relating to railway material intended to be used in international traffic and examine their development with a view to their validation or adoption in accordance with the procedures provided for in Articles 5 and 6 of the APTU Uniform Rules;
- d) take decisions, in accordance with Article 33 § 6, about proposals aiming to modify the Convention;
- e) deal with all other matters which are assigned to it in accordance with the APTU Uniform Rules, ~~and~~ the ATMF Uniform Rules and the EST Uniform Rules.

§ 2 There shall be a quorum (Article 13 § 3) in the Committee of Technical Experts, when one-half of the Member States, within the meaning of Article 16 § 1, are represented there. When the Committee is taking decisions about provisions of the Annexes to the APTU Uniform Rules, Member States which have made an objection, in accordance with Article 35 § 4, with regard to the provisions concerned or have made a declaration, in accordance with Article 9 § 1 of the APTU Uniform Rules, shall not have the right to vote with regard to the Annex concerned. When the Committee is taking decisions about provisions of the Annexes to the EST Uniform Rules, Member States which have made an objection, in accordance with Article 35 § 4, with regard to the provisions concerned or have made a declaration, in accordance with Article 9 § 1 of the EST Uniform Rules, shall not have the right to vote with regard to the Annex concerned.

[§ 3 The Committee of Technical Experts may either validate technical standards or adopt uniform technical prescriptions or refuse to validate or adopt them; it may not under any circumstances modify them.]<sup>2</sup>

<sup>1</sup> This modification, which was adopted by the 12<sup>th</sup> General Assembly, has not yet entered into force.

<sup>2</sup> This paragraph was deleted by a decision of the 12<sup>th</sup> General Assembly (not yet in force).

**Justification:**

The adoption of a new Appendix H will entail new tasks for the Committee of Technical Experts (CTE). Article 20 § 1 COTIF must be adapted to take account of these new tasks that will fall within the competence of the CTE. The CTE will have the competence to take decisions in accordance with Article 8 of the new Appendix, i.e.:

- to adopt Annexes to the EST UR; this competence is covered by the reference to Article 33 § 6 in letter d) (to be adapted, see below);
- to recommend methods and practices relating to the safe operation of trains in international traffic; letter e) will be adapted in order to cover this new task.

It should be kept in mind that future Annexes to the EST UR will form an integral part of the Convention in the sense of Article 6 § 2 COTIF.

If the CTE takes decisions concerning the provisions of the EST UR and their Annexes, Contracting States will have the right to formulate an objection according to Article 35 § 4 COTIF in the same way as for the provisions of any other Appendix or its Annex. The consequence of such an objection would be to suspend application of the Appendix or Annex concerned (see below). Another reason why a Contracting State might not apply a specific Annex to the EST UR adopted by the CTE is that it has made a declaration according to Article 9 § 1 EST. Whether the Annex in question does not apply to certain states due to an objection according to Article 35 § 4 COTIF or due to a declaration according to Article 9 § 1 EST, these states will not have the right to vote with regard to any subsequent modifications to the Annex concerned and consequently, will not be taken into account when determining if there is a quorum. A provision containing this rule, similar to the existing rule applicable to the adoption/modification of Annexes to APTU/UTPs, must be included in Article 20 § 2 COTIF.

## **5. Modification of Article 33 – Competence**

Amend § 4 letter g) and insert a new letter h); amend § 6 as follows:

### **Article 33 Competence**

- § 1 The Secretary General shall immediately bring to the notice of the Member States proposals aiming to modify the Convention, which have been sent to him by the Member States or which he has prepared himself.
- § 2 The General Assembly shall take decisions about proposals aiming to modify the Convention in so far as §§ 4 to 6 do not provide for another competence.
- § 3 When seized of a modification proposal the General Assembly may decide, by the majority provided for under Article 14 § 6, that such proposal is closely linked with one or more provisions of the Appendices to the Convention. In that case as well as in the cases referred to in §§ 4 to 6, second sentences, the General Assembly is also empowered to take decisions about the modification of such provision or provisions of the Appendices.
- § 4 Subject to decisions taken by the General Assembly in accordance with § 3, first sentence, the Revision Committee shall take decisions about proposals aiming to modify:

- a) Articles 9 and 27 §§ 2 to 5;<sup>3</sup>
- b) the CIV Uniform Rules except Articles 1, 2, 5, 6, 16, 26 to 39, 41 to 53 and 56 to 60;
- c) the CIM Uniform Rules except Articles 1, 5, 6 §§ 1 and 2, Articles 8, 12, 13 § 2, Articles 14, 15 §§ 2 and 3, Article 19 §§ 6 and 7 and Articles 23 to 27, 30 to 33, 36 to 41 and 44 to 48;
- d) the CUV Uniform Rules except Articles 1, 4, 5 and 7 to 12;
- e) the CUI Uniform Rules except Articles 1, 2, 4, 8 to 15, 17 to 19, 21, 23 to 25;
- f) the APTU Uniform Rules except Articles 1, 3 and 9 to 11 and the Annexes of these Uniform Rules;
- g) the ATMF Uniform Rules except Articles 1, 3 and 9 and the Annexes of these Uniform Rules;
- h) the EST Uniform Rules except Articles 1 and 9 and the Annexes of these Uniform Rules.**

When modification proposals are submitted to the Revision Committee in accordance with letters a) to g), one-third of the States represented on the Committee may require these proposals to be submitted to the General Assembly for decision.

- § 5 The RID Expert Committee shall take decisions about proposals aiming to modify the provisions of the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID). When such proposals are submitted to the RID Expert Committee, one-third of the States represented on the Committee may require these proposals to be submitted to the General Assembly for decision.
- § 6 The Committee of Technical Experts shall decide on proposals aiming to adopt a new Annex or to modify the existing Annexes to the APTU, ATMF and EST Uniform Rules. When such proposals are submitted to the Committee of Technical Experts, one-third of the States represented on the Committee may require these proposals to be submitted to the General Assembly for decision.

### **Justification:**

In Article 33 COTIF, which defines the division of competence between the General Assembly on the one hand and the Committees on the other regarding modifications to the Convention and its Appendices, the competence regarding modifications to the new Appendix H must also be defined. The adaptation should include a provision giving the CTE the competence to adopt and/or modify any annexes to all three technical Appendices, i.e. Appendices F, G and H.

## **6. Modification of Article 35 – Decisions of the Committees**

Amend § 4 as follows and insert a new letter d) in § 6.

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<sup>3</sup> Modification by a decision of the 12<sup>th</sup> General Assembly (not yet in force): “Articles 9 and 27 §§ 2 to 4”

## Article 35

### Decisions of the Committees

- § 1 Modifications of the Convention, decided upon by the Committees, shall be notified to the Member States by the Secretary General.
- § 2 Modifications of the Convention itself, decided upon by the Revision Committee, shall 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. Member States may formulate an objection during the four months from the day of the notification. In the case of objection by one-quarter of the Member States, the modification shall not enter into force. If a Member State formulates an objection against a decision of the Revision Committee within the period of four months and it denounces the Convention, the denunciation shall take effect on the date provided for the entry into force of that decision.
- § 3 Modifications of Appendices to the Convention, decided upon by the Revision Committee, shall 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. Modifications decided upon by the RID Expert Committee or by the Committee of Technical Experts shall enter into force for all Member States on the first day of the sixth month following that during which the Secretary General has given notice of them to the Member States.
- § 4 Member States may formulate an objection within the period of four months from the day of the notification referred to in § 3. In the case of objection by one-quarter of the Member States, the modification shall not enter into force. In the Member States which have formulated objections against a decision within the period allowed, the application of the Appendix in question shall be suspended, in its entirety, from the moment the decisions take effect, in so far as concerns traffic with and between those Member States. However, in the case of objection to the validation of a technical standard or to the adoption of a uniform technical prescription, only that standard or prescription shall be suspended in respect of traffic with and between the Member States from the time the decisions take effect; the same shall apply in the case of a partial objection. In the case of objection to the adoption or modification of an Annex to the EST UR, only that Annex shall be suspended in respect of traffic with and between the Member States from the time the decisions take effect; the same shall apply in the case of a partial objection.
- § 5 The Secretary General shall notify the Member States of the suspensions referred to in § 4; the application shall no longer be suspended after the expiry of a period of one month from the day when the Secretary General has given notice to the other Member States of the withdrawal of such an objection.
- § 6 In the determination of the number of objections referred to in §§ 2 and 4, Member States which
- a) do not have the right to vote (Article 14 § 5, Article 26 § 7 or Article 40 § 4),
  - b) are not members of the Committee concerned (Article 16 § 1, second sentence),
  - c) have made a declaration in accordance with Article 9 § 1 of the APTU Uniform Rules,
  - d) have made a declaration in accordance with Article 9 § 1 of the EST Uniform Rules
- shall not be taken into account.

**Justification:**

According to Article 35 § 4 COTIF, Member States may formulate an objection to any decision taken by a Committee. This includes CTE's decisions concerning the EST UR and their Annexes. If an objection relates to a provision of an Appendix, the application of the Appendix in question will be suspended in so far as concerns traffic with and between those Member States which have formulated an objection. This rule will also apply to the new Appendix H.

If an objection relates to an Annex to the APTU UR or the ATMF UR adopted by the CTE, only the application of this Annex will be suspended in full in traffic with the Contracting State that have formulated an objection. A similar rule should be inserted with regard to Annexes to the EST UR.

If a particular Contracting State is unable to apply the harmonised provisions developed as Annexes to these UR, this state may make a declaration to this effect. The principles are similar to those of Article 9 APTU. Consequently, such a Contracting State should not be taken into account when determining the number of objections. Article 35 § 6 must be adapted accordingly.

**III. PROPOSAL FOR MODIFICATION OF THE EXPLANATORY REPORT**

The Explanatory Report should be adapted to take account of the modifications to be adopted.

**Proposal for decision**

1. In accordance with Article 17 § 1 b) of COTIF, the Revision Committee considered the modifications to Articles 2, 6, 20, 33 and 35 of COTIF as set out in document LAW-17132 CR 26/8.2 and requests the Secretary General to submit them to the General Assembly for decision.
2. The Revision Committee considered the justification for these modifications and requests the Secretary General to amend the Explanatory Report accordingly and submit it to the General Assembly for approval.