2022-2024 WORK PROGRAMME

Updated following the written procedure of 11 July 2022 (4 August 2022)
I. LEGAL AFFAIRS

A. MONITORING AND ASSESSMENT OF LEGAL INSTRUMENTS

1. Monitoring and assessment of implementation of COTIF

*Objective and scope of work.* Assist the Secretary General in performing monitoring and assessment of the implementation of the Convention (Article 2 § 1 of document OTIF-21002-AG 15 ‘Decision on the monitoring and assessment of legal instruments’).

*Activities:*

- assess the degree of implementation of COTIF, including approval of amendments adopted at the 12th and 13th sessions of the General Assembly
- assess information on the reasons for and necessity of maintaining reservations made in accordance with Article 42 § 1 of COTIF
- consider and recommend follow-up actions.

*Priority:* medium

2. Interfaces between customs and transport regulations: completed

3. The digitalisation of international transport, particularly freight transport documents

*Objective and scope of work.* New technologies, digitalisation in particular, have the potential to change the organisation and management of railway transport. However, digitalisation brings both improvements and new challenges. The aim is to monitor and assess how digitalisation, and which specific aspects, should be supported and/or regulated by OTIF.

*Activities:*

- identify relevant stakeholders
- monitor (carry out legal survey of) the usage of digital freight transport documents in the railway sector and the application of COTIF rules to such documents. The relevant regulatory practice of other international organisations and modes, as well as aspects linked to multimodality, should be considered as well
- assess the application and relevance of COTIF rules on digital freight transport documents and, if necessary, propose follow-up actions (e.g. amendment of relevant provisions).

*Priority:* high
4. **Bill of lading**

*Objective and scope of work.* Consider introducing the possibility of using transport documents with a document of title function for the carriage of goods under the CIM UR.

The United Nations Commission on International Trade Law (UNCITRAL) and the Organisation for Cooperation between Railways (OSJD) have recently started discussions on the necessity for and regulation of a bill of lading (transport document which is a document of title) in railway transport. Both organisations invite the OTIF Secretariat to take part in their respective meetings on the subject.

Article 6 § 5 of the CIM UR states that ‘[t]he consignment note shall not have effect as a bill of lading’. More importantly, other provisions on the delivery of goods, the right to dispose of goods etc. confirm that the CIM consignment note is not a document of title.

**Activities:**
- consult OTIF’s members and relevant stakeholders on whether it is necessary to introduce the possibility of using transport documents with a document of title function under the CIM UR
- follow up activities of UNCITRAL, OSJD, ICC and CIT on transport documents which are documents of title
- if necessary, prepare modifications to the CIM UR.

*Priority:* medium

5. **Liability for loss or damage caused by a vehicle (Article 7 of the CUV UR)**

*Objective and scope of work.* Monitor and assess application of provisions on liability for loss or damage caused by a vehicle (Article 7 of the CUV UR).

The 26th Revision Committee mandated the Working Group of Legal Experts to consider feedback from the sector on the application of Article 7 of the CUV UR and, if necessary, to examine a possible modification to this Article.¹

**Activities:**
- identify relevant stakeholders
- monitor (carry out legal survey of) the application of Article 7 of the CUV UR. The relevant regulatory practice of other international organisations should be considered as well
- assess the application and relevance of Article 7 of the CUV UR and, if necessary, propose follow-up actions (e.g. amendment of relevant provisions).

*Priority:* medium

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¹ See point 13 of the 26th Revision Committee decisions on page 6 of the Minutes of the 26th session of the Revision Committee.
6. **Movement of empty wagons**  

*Objective and scope of work.* Monitor and assess application of COTIF rules to the movement of empty wagons.²  

*Activities:*  
- identify relevant stakeholders  
- monitor (carry out legal survey of) the application of COTIF rules to the movement of empty wagons. Relevant regulatory practice in other international instruments should be collected as well  
- assess the application and relevance of COTIF to the movement of empty wagons and, if necessary, propose follow-up actions (e.g. amendment of relevant provisions).  

*Priority:* medium  

7. **Arbitration**  

*Objective and scope of the work.* Assess whether the arbitration procedure in COTIF is actually necessary and, if necessary, propose modifications.  

*Activities:*  
- instruct the OTIF Secretariat to prepare an initial document on the arbitration procedure in COTIF 1999  
- consult stakeholders on whether the arbitration procedure in COTIF is actually necessary  
- consult stakeholders on possible improvements to the COTIF 1999 provisions on arbitration  
- draft proposals.  

*Priority:* low  

8. **Database of case law and bibliography**  

*Objective and scope of work.* Set up a database of case law and bibliography relating to application of COTIF  

*Activities:*  
- develop a comprehensive structure for the database  
- develop a system for the collection of relevant case law and bibliography  
- prepare a decision on establishing the database and how it should be funded.  

*Priority:* medium

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² See discussions at the 26th Revision Committee on pages 16 – 17 of the Minutes of the 26th session of the Revision Committee.
9. **Adoption, authentication, certified copies and publication of COTIF**

*Objective and scope of work.* Explain legal requirements with regard to the adoption, authentication, certified copies and publication of the Convention. Whenever useful, standardise and harmonise the relevant procedures of the General Assembly and the Revision Committee.

*Activities:*

- provide detailed explanations of the relevant OTIF rules in light of public international law
- draft legally non-binding guidelines on the adoption and authentication of amendments to the Convention.

*Priority:* high

10. **Suspension and termination of COTIF and/or membership of OTIF with regard to a particular Member State.**

*Objective and scope of work.* Review OTIF and international law rules and relevant practice on suspension and termination of treaties and membership (including limitation of some rights).

*Activities:*

- determine and assess relevant OTIF rules and practice;
- determine and assess relevant international law and practice;
- if necessary, prepare modifications to COTIF and any other relevant OTIF rules.

*Priority:* high

**B. LEGAL ADVICE**

1. **UNECE initiative on Unified Railway Law**

*Objective and scope of work.* Monitor the UNECE project concerning the unification of railway law

*Activities:*

- follow the development of the UNECE initiative on Unified Railway Law
- issue advisory opinions on legal matters, if necessary

*Priority:* low

2. **Railway network access conditions and cross-border cooperation for the purpose of organising international rail transport**

*Objective and scope of work.* Develop a non-binding legal framework on railway network access conditions and cross-border cooperation for the purpose of organising international rail transport. The corresponding work should be concentrated along the following lines:

- defining access conditions (capacity allocation, infrastructure charges etc.)

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4. These guidelines have been defined in part VI of document SG-18041-AG 13/15 submitted to the 13th General Assembly.
− defining the scope of access (core infrastructure, including or excluding services facilities, whole network or certain lines, restrictions)
− defining requirements for railway undertakings, infrastructure managers and the relationship between them (licence, civil liability insurance, safety certificate, contract of use etc.)
− defining an appropriate legal form for the instrument and a mechanism for acceding to it (general application among all parties to the instrument or application only between states which have mutually agreed to apply it).

Activities:

− identify relevant stakeholders
− carry out legal survey on
  • relevant existing international instruments and practices
  • possible content of OTIF’s instrument
− draft a non-binding instrument.

Priority: medium

3. **Uniform contract for international train paths**

*Objective and scope of work.* Increasing the modal share of freight is inconceivable unless there is real fluidity in international traffic and, in particular, a simple mechanism for allocating train paths. Based on existing international rules, namely CUI UR, and following the model of the GCU contract based on CUV, a coordinated and uniform legal framework for using international train paths should be established by the sector, with the support of OTIF.  

Activities:

− identify relevant stakeholders
− carry out legal survey on usage of international train paths, including identification of obstacles
− identify possible and necessary OTIF measures to support usage of international train paths.

Priority: medium

4. **Use of gender-neutral language in OTIF**

*Objective and scope of work.* Introduction of gender-neutral language in OTIF legal instruments.

Activities:

- assess the feasibility of using gender-neutral language in OTIF’s legal instruments, the extent to which it should be used and the manner in which it should be used
- issue recommendations on the use of gender-neutral language in OTIF’s legal instruments.

Priority: medium

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5. **Use of electronic signatures in official communications between OTIF and its members**

*Objective and scope of work.* Examine the legal requirements for the use and acceptance of electronically signed documents (credentials, letters, approvals, reservations, depositary notifications etc.) in official communications between OTIF and its members.

*Activities:* issue a recommendation on the use and acceptance of electronic signatures in official communications between OTIF and its members.

*Priority:* medium

6. **Application of the CUI UR to service facilities**

*Objective and scope of work.* Examine the issue of the application of the CUI UR to service facilities. In particular, it should be established whether the CUI UR apply and to what extent.

*Activities:* issue an advisory opinion.

*Priority:* medium
II. INTERNATIONAL COOPERATION

1. Monitor and support cooperation with international organisations and associations

Objective and scope of work. Monitor and enhance cooperation of OTIF with international organisations and associations, in particular those with direct responsibilities in the field of railway transport.

Activities:

– monitor international cooperation by the Secretariat
– take decisions on cooperation with other international organisations and associations
– establish and monitor joint contact groups.

Priority: medium

2. Enhancing stakeholder involvement within OTIF

Objective and scope of work. Develop an inclusive and transparent stakeholder involvement policy in order to promote COTIF, develop railway law and monitor and assess existing legal instruments.

Activities:

– prepare a recommendation on stakeholder involvement in OTIF organs (completed)
– apply the recommendation in OTIF’s work (completed)
– prepare guidelines on cooperation with international intergovernmental organisations.

Priority: high

3. Handbook on COTIF and its implementation and application by international associations

Objective and scope of work. Clarify the roles and responsibilities of international associations with regard to the implementation and application of COTIF, thus, promoting and facilitating the uniform implementation and application of COTIF.

Activities:

– identify relevant international associations
– together with relevant international associations, jointly develop and approve a handbook on COTIF and its implementation and application
– disseminate the handbook and organise a special event to promote it.

Priority: medium
III. LONG-TERM STRATEGY

Development of a long-term strategy

Objective and scope of work. Assist the Secretary General in the preparation of a long-term strategy based on the decision of the General Assembly at its 15th session.

Activities:

– advise the Secretary General on strategic objectives
– consider legal and international cooperation aspects in a draft long-term strategy and its subsequent implementation.

Priority: high