

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTER-
NATIONAL CARRIAGE BY RAIL**

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**Subject: 1.9.2 – Alignment of the English and French versions with the original German
text**

Proposal transmitted by the Secretariat of OTIF

Introduction

Chapter 1.9 as revised by a working group entered into force on 1 January 2005.

In a legal examination of the provisions of this Chapter in a COTIF Member State, it was established, among other things, that the terminology used in paragraphs (b) and (c) of 1.9.2 is different in the various languages. While the German version always refers to “Strecken” or “Ersatzstrecken”, the English version uses the expressions “sections”, “(alternative) routes” and “routeing” and the French version uses the expressions “lignes” and “itinéraire(s)”. In the legal examination, the French text was interpreted to mean that the alternative routes to be established (“itinéraires de remplacement”) do not have to be railway routes, but could also be road or inland waterway routes.

In order to rule out the possibility of this misinterpretation, it is proposed that the English and French versions be aligned with the German version (see proposal 1).

In addition, the legal examination also came to the view that the provisions of 1.9.1, last indent, and of 1.9.2 (b) are perhaps contradictory.

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The Secretariat of OTIF does not share this view, as the last indent of 1.9.1 concerns a general prohibition on the whole territory, while 1.9.2 (b) only provides for the possibility of prohibiting the carriage of certain substances on certain sections. The aim of the provision in the last indent of 1.9.1 is that the provisions for the international carriage of dangerous goods adopted jointly by the Member States should not be rescinded by general prohibitions imposed by individual Member States. The drafting of this provision was also guided by the ADR Agreement which, in its Article 2 § 2, permits the international carriage of dangerous goods if the conditions of Annexes A and B of ADR are met.

In order to avoid different legal interpretations, the last indent of 1.9.1 could also be slightly adapted (see proposal 2).

Proposal 1

1.9.2 Amend the English text to read as follows: (amendments are shown in bold type):

"**1.9.2** The additional provisions referred to in 1.9.1 are:

- (a) additional safety requirements or restrictions on carriage
 - using certain structures such as bridges or tunnels¹,
 - using combined transport installations such as transshipment installations, or
 - where the transport operation begins or ends in ports, railway stations or other transport terminals.
- (b) provisions according to which the carriage of certain dangerous goods on sections of **lines** with special and local risks is prohibited, such as sections of **lines** in residential areas, environmentally sensitive areas, economic centres or industrial zones containing hazardous installations, or to which special conditions, e.g. operational measures (reduced speed, specified journey times, prohibition on trains meeting each other, etc.) apply. Where possible, the competent authorities shall establish alternative **railway** routes which may be used for each prohibited ~~route~~ **line** or each ~~route~~ **line** subject to special provisions.
- (c) exceptional provisions specifying the excluded or prescribed ~~routing~~ **line** or provisions to be observed for temporary storage resulting from extreme weather conditions, earthquake, accident, demonstrations, civil disorder or military hostilities."

1.9.2 Amend the French text to read as follows: (amendments are shown in bold type):

"**1.9.2** Les dispositions supplémentaires visées au 1.9.1 sont :

- a) des conditions supplémentaires ou des restrictions servant à la sécurité pour des transports,

¹ For carriage through the Channel Tunnel and through tunnels with similar characteristics, see also Articles 5 § 2 (a) and (b) of Council Directive 96/49/EC on the carriage of dangerous goods by rail, published in the Official Journal of the European Communities, L 235, 17 September 1996, p. 25.

- empruntant certains ouvrages d'art tels que ponts et tunnels²,
 - utilisant des installations du trafic combiné telles que p. ex. transbordeurs ou
 - arrivant dans des ports, gares ou autres terminaux de transport ou les quittant.
- b) des conditions sous lesquelles le transport de certaines marchandises dangereuses est interdit ou est soumis à des conditions particulières d'exploitation (par ex. vitesse réduite, durée du trajet déterminée, interdiction de croisement, etc.), sur des lignes présentant des risques particuliers ou locaux, telles que des lignes traversant des zones résidentielles, des régions écologiquement sensibles, des centres commerciaux ou des zones industrielles où se trouvent des installations dangereuses. Les autorités compétentes devront fixer, dans la mesure du possible, des itinéraires **lignes** de remplacement à utiliser pour les lignes fermées ou soumises à des conditions particulières.
- c) des conditions exceptionnelles précisant l'~~itinéraire~~ **la ligne** exclue ou à suivre ou les dispositions à respecter pour les séjours temporaires en cas de conditions atmosphériques extrêmes, de tremblements de terre, d'accidents, de manifestations syndicales, de troubles civils ou de soulèvements armés."

Comments on the existing French version

This text was discussed at length in a working group on Chapter 1.9. For the French text, the French delegation had proposed "itinéraire de remplacement" and "itinéraire exclu ou à suivre", probably to take account of the special operational conditions for the carriage of goods by rail and especially for wagonload traffic. It is true that the expression "itinéraire" can be used for all modes. However, there was never any question of shifting transport onto the roads or inland waterways. The French expression "ligne" can also be interpreted in different ways, as there are also "lignes maritimes" (shipping routes), some of which are entered as CIM/CIV routes. In order to avoid unwanted legal interpretations, the word "ferroviaire" should be added after "itinéraire" or "ligne" in the cases referred to. The French speaking delegations are requested to give their views on these alternatives.

Proposal 2

1.9.1 Amend the last indent to read as follows (the amendment is shown in bold type):

- “– do not result in the prohibition of carriage by rail of the dangerous goods covered by these provisions in the **whole** territory of the Member State.”

² Pour les transports empruntant le tunnel sous la Manche ou d'autres tunnels ayant des caractéristiques similaires, voir également art. 5, § 2 a) et b) de la Directive 94/49/CE du Conseil relative au transport de marchandises dangereuses par chemin de fer, publiée dans le Journal officiel des Communautés européennes No L 235 du 17 septembre 1996, p. 25.