



OTIF/RID/CE/2018/1

27 March 2018

Original: German

RID: 55th Session of the RID Committee of Experts
(Berne, 30 May 2018)

Subject: Adaptation of the RID Committee of Experts' Rules of Procedure

Proposal transmitted by the Secretariat

SUMMARY

Explanatory summary:

Take account of the new working method of the RID Committee of Experts and its standing working group in the Rules of Procedure

Decision to be taken:

Adaptation of the RID Committee of Experts' Rules of Procedure

Related documents:

[Rules of Procedure](#) adopted by the 42nd session of the RID Committee of Experts (Madrid, 21 to 25 November 2005) and brought into force on 1 July 2006 (document A 81-03/501.2006/Add.3).

Introduction

1. The Rules of Procedure (see document A 81-03/501.2006/Add.3) adopted by the 42nd session of the RID Committee of Experts (Madrid, 21 to 25 November 2005) entered into force on 1 July 2006.

2. At the 51st session of the RID Committee of Experts (Berne, 30 and 31 May 2012), the working method of the RID Committee of Experts was fundamentally changed in order to enable internal EU coordination of meetings of the RID Committee of Experts. It was agreed that meetings of the RID Committee of Experts would only be held at the end of a biennium (in May of even numbered years) and that the other annual meetings would be held in the form of working groups within the meaning of Article 22 § 1 of the Rules of Procedure of the RID Committee of Experts (see OTIF/RID/CE/2012-A, paragraphs 46 to 48).
3. At the end of the 2013/2014 biennium, there was no assessment of the success of this new working method, as planned according to paragraph 48 of report OTIF/RID/CE/2012-A. However, as the 2015 and 2017 amendments were successfully implemented using this new procedure, it can be assumed that the new working method has proved to be effective.
4. However, it has been noted that a weak point of this new working method is that decisions of the RID Committee of Experts that do not come under the adoption of amendments to the provisions of RID can be delayed.
5. This problem first arose in connection with setting up a joint coordinating group of experts to implement the procedures described in the report of the RID/ATMF working group (see OTIF/RID/CE/GTP/2017-A, paragraphs 60 and 61), because according to Article 22 § 1 of the Rules of Procedure of the RID Committee of Experts, its standing working group can only prepare decisions of the RID Committee of Experts, but it is not authorised to set up other working groups.
6. In order to avoid such problems in future and to adapt other points of the Rules of Procedure to circumstances, the Secretariat proposes various amendments to the Rules of Procedure.

Proposals

7. Combine Articles 3 and 4 into a single Article:

“Article 3 Representatives

- § 1 Each Member State and each regional organisation shall designate one or more representatives. If a Member State or a regional organisation designates more than one representative, a head of delegation who shall exercise the right to vote shall be designated at the same time.
- § 2 Each Member State shall notify the Secretary General in writing of the information concerning its representatives.
- ~~§ 3 The European Community shall be represented by the European Commission which, on its part, shall as a rule mandate the Member States of the European Community to represent it, as the latter possess expert technical knowledge. However, the European Community may at any time exercise the right laid down in Article 33 § 5 of the Convention, which allows one third of the Member States represented in the Committee of Experts to request that a proposal submitted to the Committee of Experts be submitted to the General Assembly for decision.~~
- § 3 A Member State may be represented by another Member State provided the Secretary General is notified in writing.

§ 4 However, in accordance with Article 16 § 3 of the Convention, a Member State may not represent more than two other Member States.”

Justification:

§§ 1 and 2 have been carried over without change from the current Article 3 and §§ 3 and 4 have been carried over without change from the current Article 4.

§ 3 should be deleted, as the Rules of Procedure should refer to regional organisations in general, rather than to a particular regional organisation. The provision in the existing § 3 concerns the internal relationship between the European Union and its Member States and is not therefore within the regulatory scope of the RID Committee of Experts' Rules of Procedure.

The specific characteristics of regional organisations are taken into account in § 2 of the new Article 4 (Right to vote).

8. Include a new Article 4 Right to vote.

**“Article 4
Right to vote**

§ 1 Subject to the rules in Articles 14 § 5, 26 § 7, 38 § 3 and 40 § 4 (b) of the Convention, each Member State shall have one vote;

§ 2 Each regional organisation shall enjoy the number of votes equal to those of its members which at the time of the vote are entitled to vote according to § 1, to the extent that the items discussed cover matters for which it is competent. Such members of a regional organisation may only exercise their right to vote to the extent that the items discussed do not cover matters for which the regional organisation is competent.”

Justification:

This Article has been included in order to provide a better link to Article 20 (Quorum).

§ 1 has been carried over with minor amendments from the current Article 21 § 1 (a). § 2 has been added in order to reflect the voting rights of regional organisations. This provision can be found with similar wording in the Rules of Procedure of the Revision Committee and the Committee of Technical Experts.

9. Amendment of Article 20 (Quorum):

**Article 20
Quorum**

§ 1 In accordance with Articles 13 § 3 and 18 § 2 of the Convention, there shall be a quorum in the Committee of Experts when at least one-third of the Member States entitled to vote in accordance with Article 4 are either present or represented in accordance with Article 4 ~~3~~.

~~§ 2 In accordance with Article 13 § 3 of the Convention, in deciding whether there is a quorum, account shall not be taken of Member States which do not have the right to vote (see Article 14 § 5 of the Convention) or whose right to vote has been suspended (see Article 26 § 7 and 40 § 4 (b) of the Convention). For the purpose of determining~~

the quorum for an agenda item on a matter within the competence of a regional organisation, that organisation shall be counted to the extent of the number of votes it is entitled to cast in accordance with Article 4 § 2.

Justification:

Inclusion of a reference to the new Article 4 (Right to vote). In practice, this means that there is also a quorum if a representative of a regional organisation is present and exercises the right to vote of this organisation's members.

10. Amendment of Article 21 (General voting rules):

**“Article 21
Voting rules**

§ 1 Voting in the Committee of Experts shall take place in accordance with the following rules:

- (a) ~~subject to the rules in Articles 14 § 5, 26 § 7 and 40 § 4 (b) of the Convention and in Article 38 § 3 of the Convention in conjunction with Article 3 § 3, each Member State shall have one vote~~ subject to Article 4, each Member State shall have one vote;
- (b) a proposal shall be adopted if the number of votes in favour is:
 - equal to at least one third of the Member States represented at the time of the vote and
 - greater than the number of votes against.
- (c) Member States who abstain in the vote shall nevertheless be considered to be represented at the time of the vote.

§ 2 In principle, voting shall take place by show of hands. However, any Member State may request a nominal vote. In this case, the vote shall take place in French alphabetical order of the Member States present or represented. The vote of each Member State participating in the vote shall be recorded in the report of the relevant meeting.

§ 3 Where a matter arises outwith a meeting, and if the Chair, the Secretary General or at least five members of the Committee of Experts believe a decision needs to be taken which should not be postponed until the next meeting of the Committee of Experts, the Chair shall conduct a vote by written procedure in accordance with the following rules:

- (a) if no permanent Chair is elected, the Chair shall be defined as that of the most recent session;
- (b) all Member States shall be informed in writing about the subject of and reason for such a vote;
- (c) independent issues are to be voted upon separately, but if appropriate, during the same procedure;
- (d) the members shall be invited to send the Secretary General their written votes (yes/no/abstention) within a specific deadline (date and time), which must allow them no less than twenty one calendar days;

- (e) receipt of each vote shall be confirmed by the Secretary General;
- (f) all responses received within the deadline shall be recorded;
- (g) the quorum shall be the same as for a meeting of the Committee of Experts. If the number of responses received before the deadline does not reach the required quorum, the proposal shall be considered to be rejected. It may, however, be resubmitted at the next meeting of the Committee of Experts; and
- (h) all Member States shall be notified of the result of the voting procedure.”

Justification:

As the content of § 1 (a) has been carried over into the new Article 4 without change, the text can now be worded more briefly.

The vote by written procedure is considered necessary because of the lengthy period between two sessions of the RID Committee of Experts. The Rules of Procedure of the Revision Committee and the Committee of Technical Experts contain virtually identical rules.

11. Amendment of Article 22 (Working groups):

**“Article 22
Standing working group and temporary working groups**

§ 1 The standing working group shall prepare the decisions of the Committee of Experts.

§ 2 In order to prepare the decisions or to discuss particular questions, the Committee of Experts or the standing working group may, if it considers it necessary, set up one or more ~~standing or~~ temporary working groups of their own.

§ 3 The Rules of Procedure of the Committee of Experts shall as a rule be applied analogously at meetings of the standing working group and of temporary working groups.”

Justification:

The amendments reflect the actual working method of the RID Committee of Experts and its standing working group and authorise the standing working group to set up other working groups.
