



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

**INF. 2**

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(English only)

**RID:** 55<sup>th</sup> Session of the RID Committee of Experts  
(Berne, 30 May 2018)

**Subject:** Working group of legal experts

**Note by the Secretariat**

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Working group of legal experts

## Working group of legal experts

### Raison d'être

The 2018/2019 Work Programme approved by the 128<sup>th</sup> Administrative Committee provides for the setting up of a working group of legal experts.

At its 26<sup>th</sup> session, the Revision Committee also supported setting up the working group. The discussions at this session of the Revision Committee confirmed the need for this working group and that now is the right time to establish it.

The raison d'être of this working group:

- Keeping a watch on, supporting and promoting application of the applicable regulations
- Ensuring the adaptability of COTIF by the development of “hard” (amendments and supplements to COTIF, adoption of new binding international treaties) and “soft” (legally non-binding recommendations, declarations, codes of conduct etc.) railway law.

## Working group of legal experts

### IGOs' practice and OTIF's institutional framework

There is a common need (e.g. CoE, ICAO, IMO etc.) for specialised legal organs in order to assess, advise on and draft hard or soft law instruments in the legal field.

The core institutional system of COTIF is established in Article 13 § 1 and consists of the following decision-making and administrative organs: the General Assembly, the Administrative Committee, the Revision Committee, the RID Expert Committee, the Rail Facilitation Committee, the Committee of Technical Experts and the Secretary General.

OTIF organs enjoy the explicit and implicit right derived from the Convention to set up working groups. This right has already been widely exercised.

The practice of holding advisory/preparatory working groups has proved to be useful in ensuring consistent and coherent regulation, as well as the development thereof. However, such practice does not ensure a consistent and coherent approach in the development of the overall legal framework and does not allow new challenges to be identified on time.

## Working group of legal experts

### OTIF working group of legal experts: status and task

- The task of the working group will be to assist and facilitate the functioning of the existing organs defined in Article 13 § 1 in the legal field and to ensure the effective management of the Convention;
- Its functions will be of a preparatory and advisory nature in the legal field;
- Activities will be limited to the legal field and will cover international public and transport law;
- Activities will not cover the specialised “technical” areas of the transport of dangerous goods, interoperability and safety;
- The working group will not have any special authority under COTIF to interpret the provisions of the Convention or other legal acts and will not have any authority to take any binding decisions. Any binding decisions will have to be taken by the existing competent organs.

## Working group of legal experts

### OTIF working group of legal experts: functions and work programme

#### **Functions:**

- Preparation of draft amendments or supplements to the Convention
- Provision of legal advice and assistance
- Promotion and facilitation of the functioning and implementation of COTIF
- Monitoring and assessing the application and implementation of COTIF
- Acting as a forum and think-tank for OTIF's members to raise and discuss relevant legal questions.

#### **Provisional work programme:**

- Steer and assess the application and implementation of COTIF
- Assess the interfaces between customs and transport regulations in order to ensure efficient international railway traffic
- Assess the digitalisation of transport documents
- Carry out studies on a uniform contract for international train paths.

## Working group of legal experts

### OTIF working group of legal experts: working arrangements

Open to all members of the Organisation;

Decisions by simple majority;

Stakeholders may participate in an advisory capacity in accordance with conditions defined by the working group;

Periodically report to organs defined in Article 13 § 1 on relevant activities;

Detailed rules of procedure to be adopted by the working group itself.

## Working group of legal experts

### Proposal for decision

The Committee notes the establishment of the working group of legal experts.

The Committee notes the possibility of requesting legal advice or assistance from the working group of legal experts on matters within the competence of the Committee.





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