



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

Groupe de travail TECH
Arbeitsgruppe TECH
Working Group TECH

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[draft] Decision by the Committee of Technical Experts concerning the involvement of stakeholders in its work and concerning the revision of its rules of procedure

1. INTRODUCTION

At its 2nd session on 5 April 2022, the ad hoc Committee on Legal Affairs and International Cooperation (JUR) adopted a recommendation on involving stakeholders in OTIF's work ([OTIF-22002-JUR 2](#), further referred to as the Recommendation). The Recommendation is annexed to this document.

The Recommendation defines a stakeholder in a broad sense, meaning a natural or legal person affected by OTIF's legal instruments or with a legitimate interest in them. For the purpose of the Recommendation, only legal instruments in the area of railway transport are relevant. Consequently, in practical terms, stakeholders are different actors affected by legal instruments (such as passengers, railway undertakings, infrastructure managers, etc.) or having a legitimate interest in them (such as national or international associations representing railway undertakings, infrastructure managers, etc.). Moreover, academic institutions, academics, researchers and experts in a broad sense may have a professional interest in relevant OTIF legal instruments.

It is worth noting that the concept of 'stakeholders' does not cover states or intergovernmental organisations, irrespective of whether or not these are members of OTIF.

The purpose of involving stakeholders is to include them actively in developing, applying, disseminating, promoting, monitoring, and assessing OTIF's legal instruments in the area of railway transport.

Each OTIF organ referred to in COTIF Article 13, which includes the Committee of Technical Experts (CTE), is responsible for establishing its rules for involving stakeholders under conditions laid down in COTIF and its respective Rules of Procedure. Each OTIF organ should decide whether and how it wishes to implement the Recommendation.

The Secretariat proposes that the CTE apply the Recommendation in accordance with this document. Furthermore, the Secretariat proposes that the Rules of Procedure of the CTE be revised for this purpose.

2. RELEVANT LEGAL BASIS FOR THE CTE

Below are excerpts from the relevant applicable provisions concerning the involvement of parties other than members of the Organisation.

Article 16 § 5 of COTIF lays down the general rule for the involvement of observers in Committees:

On the invitation of the Secretary General, issued with the agreement of a majority of the Member States,

- a) States which are not members of the Organisation,*
- b) Member States which, however, are not members of the Committee concerned,*
- c) international organisations and associations having competence for questions concerning the Organisation's activities or dealing with problems which have been placed on the agenda,*

may attend meetings of the Committees in an advisory capacity.

Article 5 § 2 of the APTU UR lays down that:

An application for validation of a technical standard may be made by:

- a) any Contracting State;*

- b) *any regional organisation as defined in Article 2 x) of ATMF;*
- c) *any national or international standardisation body having the task of standardisation in the railway field; Article 3 § 2 shall be taken into account;*
- d) *any representative international association for whose members the existence of technical standards relating to railway material is indispensable for reasons of safety and economy in the exercise of their activity.*

Article 6 § 2 of the APTU UR lays down that:

An application for adoption of a UTP or a provision amending it according to § 1 may be made by:

- a) *any Contracting State;*
- b) *any regional organisation as defined in Article 2 x) of ATMF;*
- c) *any representative international association for whose members the existence of UTP relating to railway material is indispensable for reasons of safety and economy in the exercise of their activity.*

In order to make the applications referred to in Article 5 § 2 and Article 6 § 2 of the APTU UR, the association must also be involved in discussions concerning the application. Therefore, these associations must in any case be invited to meetings where their application is considered. This is reflected in Article 5 § 2 of the Rules of Procedure of the CTE.

Article 5 of the CTE's Rules of Procedure of 22 June 2021¹:

- § 1 *Representatives of associated members of OTIF, representatives of States which are not members of the Committee and representatives of international organisations and associations invited in accordance with Article 16 § 5 of the Convention as well as persons invited to a session of the Committee by the Secretary General on account of their specialist competencies in connection with the discussion of particular matters may take part in the meetings of the Committee in an advisory capacity (observers).*
- § 2 *Institutions which have made a request for validation of a technical standard or adoption of a uniform technical prescription in accordance with Article 5 § 1 c) and d) or in accordance with Article 6 § 1 c) of APTU shall be invited to the session of the Committee at which this request is to be discussed. Such institutions may take part in an advisory capacity.*
- § 3 *The Committee may draw up a list of international associations and organisations that shall be invited to the sessions of the Committee in any case (permanently invited observers).*
- § 4 *Observers may submit suggestions in accordance with the conditions defined in Article 11 § 2.*

3. CURRENT PRACTICE

In the following description of current practice, the term 'observers' is used together with the term 'stakeholders'. 'Observers' include all parties that are not OTIF members (i.e. that are not *Member States, associate members or regional organisations that have acceded to COTIF*). This means that 'observers' may also include states that are not a member of OTIF, while, 'stakeholders' are limited to *natural or legal persons affected by OTIF's legal instruments or with a legitimate interest in them.*

¹ There are two obvious editorial errors in Article 5 § 2 of the Rules of Procedure of the CTE; the references should be to Article 5 § 2 (not § 1) and Article 6 § 2 (not § 1) of the APTU UR.

Stakeholders, therefore, are e.g. associations, standardisation organisations, academics, etc., but not states. ‘Stakeholders’ are therefore a specific subgroup of ‘observers’.

All Member States, associate members and regional organisations that have acceded to COTIF, including those which do not apply² the APTU or ATMF UR, are by default invited to all sessions.

With regard to inviting observers, the established practice is that invitation circulars to CTE and to its working group TECH contain the following text:

On the basis of Article 16 § 5 of COTIF, the Secretary General invites the states, organisations and associations listed in Annex I in an advisory capacity, subject to the agreement of a majority of the Member States. Member States are asked to send the Secretariat any objections they may have concerning this invitation by no later than [date]. The Secretary General will assume the tacit agreement of the Member States that do not object.

This means that the agreement of the majority of the Member States is obtained tacitly and on a case-by-case basis.

Annex I of the circular then contains two lists; one list with non-Member States and one list with organisations and associations. To illustrate this, below is a copy of Annex I of the invitation to the 47th session of WG TECH (TECH-22032-WGT 47):

The following states that are not members of the Organisation are invited to participate in the working group session in an advisory capacity (observer):

- People’s Republic of China*
- Republic of Moldova*

The following organisations and associations are invited to participate in the working group session in an advisory capacity (observers):

- Association of notified bodies (NB-Rail Association)*
- Community of European Railway and Infrastructure Companies (CER)*
- European Committee for Standardization (CEN)*
- European Rail Infrastructure Managers (EIM)*
- European Rail Freight Association (ERFA)*
- European Transport Workers’ Federation (ETF)*
- International Association of Private-Sidings Users (IVA)*
- International Association of Public Transport (UITP)*
- International Rail Transport Committee (CIT)*
- International Union of combined Road-Rail transport companies (UIRR)*
- International Union of Railways (UIC)*
- International Union of Wagon Keepers (UIP)*
- Organisation for Cooperation between Railways (OSJD)*
- The Gulf Cooperation Council (GCC)*
- Transport Community Permanent Secretariat (TCPS)*

² Only those Members States that apply the APTU and ATMF UR have the right to vote.

–*Union of European Railway Industries (UNIFE)*

The list of organisations and associations includes both (semi-)governmental organisations and non-governmental organisations and associations.

The list is amended from time to time in coordination with the CTE. Since 2012, the NB-Rail Association and TCPS have been added to the list of organisations and associations (stakeholders). In the same period, only the European Union Agency for Railways (ERA) was removed from the list, as ERA is considered to represent the European Union and is therefore invited as a ‘regional organisation that has acceded to COTIF’. Several of the invited stakeholders have not participated in any meetings during this same period.

The list of invited non-Member States changes more often. Current practice is that non-Member States are invited if there is a potential or expressed interest in becoming a member. The invitation to non-Member States is not usually renewed for every meeting, as attending meetings is in principle a privilege for states that are a member or associate member of OTIF.

States, associations and organisations may also be permanently invited on the basis of a memorandum of understanding or agreement they have with OTIF (this is for example the case for China, GCC, OSJD and UIC).

4. DIFFERENT PARTIES THAT MAY BE INVITED TO MEETINGS

In order to align the CTE’s practice with the Recommendation, future invitations should distinguish between:

1. States and intergovernmental organisations:
 - a) That are (associate) members of OTIF or have acceded to COTIF;
 - b) That are invited to all sessions on the basis of a cooperation agreement or MoU;
 - c) That are invited on an ad hoc basis by the Secretary General in accordance with Article 16 § 5 of COTIF, subject to the agreement of a majority of Member States;
2. Stakeholders:
 - a) That are permanently invited by the CTE, or that are invited to all sessions on the basis of a cooperation agreement or MoU;
 - b) That are associations or bodies which have made a request for validation of a technical standard or adoption of a uniform technical prescription in accordance with Article 5 § 2 c) and d) or in accordance with Article 6 § 2 c) of the APTU UR (if not already covered under a).
 - c) That are invited on an ad-hoc basis by the Secretary General in accordance with Article 16 § 5 of COTIF, subject to the agreement of a majority of Member States;

5. PROPOSED UPDATED PRACTICE

The CTE has an established practice for involving stakeholders in its work. It should not therefore be necessary to create a new list of registered stakeholders, or to request stakeholders that already actively participate to fill out an application form. Nevertheless, for reasons explained in the Recommendation, a formal decision is required in order to invite stakeholders.

It is proposed that the CTE applies the general principles set out in the Recommendation, but with some adaptations to the detailed process as described below.

Point 4.3 of the Recommendation sets out a process for dealing with stakeholders' applications for . The process involves a written procedure to obtain the agreement of the Member States. Applying this process would add an administrative burden compared to the long-standing practice of the CTE. It is therefore proposed that the CTE adopts a simplified process as follows.

4.3 of the Recommendation	Proposed alternative process for CTE to deal with stakeholders' applications
The Secretariat of the relevant OTIF organ should examine compliance with the formal requirements.	The Secretariat examines compliance of the application with the formal requirements.
The relevant OTIF organ should grant the status of registered stakeholder on the basis of the application, taking into account the opinion of the Secretariat. To the extent possible, such decisions should be taken by means of a written tacit procedure and by consensus.	If the Secretariat is satisfied that the formal requirements are met, the Secretary General will invite the applicant stakeholder to the next session by application of Article 16 § 5 of COTIF, subject to agreement of the majority of Member States.
The members of the relevant OTIF organ must be given at least 14 days from the submission by the Secretariat of an application for decision to express their objections.	Member States will be asked to send the Secretariat any objections they may have concerning the invitation. The Secretary General may assume the tacit agreement of the Member States that do not object.
If there is at least one objection, the relevant OTIF organ should consider the application in question at its next session.	At its next session, the CTE should consider adding the applicant stakeholder to the list of registered stakeholders.

As mentioned above, some of the stakeholders currently invited to sessions do not in practice participate in the work. It would seem justified to stop inviting these stakeholders, bearing in mind that at any time they may apply to be become a registered stakeholder (again).

Point 5 of the Recommendation describes the rights of registered stakeholders. For the CTE, the rights of stakeholders are regulated by the APTU UR (Articles 5 and 6 concerning representative international associations) and by the Rules of Procedure of the CTE (Article 5 concerning observers). If the CTE wishes to assign additional rights to stakeholders, it could do so by modifying its Rules of Procedure. The CTE should not therefore apply point 5 of the Recommendation.

[DRAFT] PROPOSAL FOR DECISION

The CTE takes note of the recommendation on involving stakeholders in OTIF's work (OTIF-22002-JUR 2) and decides to update its practice for inviting stakeholders and other observers to sessions of the CTE and to sessions of WG TECH.

The CTE decides that it will apply - mutatis mutandis - recommendation OTIF-22002-JUR 2, with the exception of point 5, which it will not apply.

The CTE decides that, instead of point 4.3 of recommendation OTIF-22002-JUR 2, it will apply the following procedure to deal with applicant stakeholders:

- The Secretariat examines compliance of the application with the formal requirements. If the Secretariat is satisfied that the formal requirements are met, the Secretary General will invite the applicant stakeholder to the next session by application of Article 16 § 5 of COTIF, subject to the agreement of the majority of Member States. Member States will be asked to send the Secretariat any objections they may have concerning the invitation. The Secretary General will assume the tacit agreement of the Member States that do not object. At its next session, the CTE should consider adding the applicant stakeholder to the list of registered stakeholders.

The CTE establishes the following list of registered stakeholders that are permanently invited to sessions of the CTE and its WG TECH:

- *Association of notified bodies (NB-Rail Association)*
- *Community of European Railway and Infrastructure Companies (CER)*
- *European Committee for Standardization (CEN)*
- *European Rail Freight Association (ERFA)*
- *International Rail Transport Committee (CIT)*
- *International Union of combined Road-Rail transport companies (UIRR)*
- *International Union of Railways (UIC)*
- *International Union of Wagon Keepers (UIP)*
- *Organisation for Cooperation between Railways (OSJD)*
- *The Gulf Cooperation Council (GCC)*
- *Transport Community Permanent Secretariat (TCPS)*
- *Union of European Railway Industries (UNIFE)*

The CTE notes that it may amend the list of registered stakeholders from time to time, by adding new stakeholders or removing stakeholders that no longer meet the formal requirements defined in OTIF-22002-JUR 2, or that have not been actively involved in the work for an extended period.

The CTE requests registered stakeholders to designate one or two focal points, which will act as contact points between the stakeholder and the OTIF Secretariat.

The CTE decides that the following organisations and associations, which until June 2023 were invited to sessions of the CTE and WG TECH, but which have not attended or otherwise contributed to the work in the last 10 years, should no longer be invited:

- *European Rail Infrastructure Managers (EIM)*
- *European Transport Workers' Federation (ETF)*
- *International Association of Private-Sidings Users (IVA)*
- *International Association of Public Transport (UITP)*

However, the CTE emphasises that the decision no longer to invite certain organisations and associations is not a sanction and that these organisations and associations may at any time apply to become a registered stakeholder.

The CTE encourages the Secretariat to bring the application form to the attention of natural or legal persons that might be interested in becoming a registered stakeholder, for example by using social media.



Organisation intergouvernementale
pour les transports internationaux
ferroviaires (OTIF)

Zwischenstaatliche Organisation
für den internationalen
Eisenbahnverkehr (OTIF)

Intergovernmental Organisation
for International Carriage
by Rail (OTIF)

OTIF-22002-JUR 2

Recommandation sur l'implication des parties prenantes dans les travaux de l'OTIF

adoptée par la Commission ad hoc sur les questions juridiques et la coopération internationale à sa 2^e session, le 5 avril 2022

Empfehlung zur Einbindung von Interessengruppen in die Arbeit der OTIF

angenommen vom Ad-hoc-Ausschuss für Rechtsfragen und internationale Zusammenarbeit auf seiner 2. Tagung am 5. April 2022

Recommendation on involving stakeholders in OTIF's work

adopted by the ad hoc Committee on Legal Affairs and International Cooperation at its 2nd session on 5 April 2022

Recommandation sur l'implication des parties prenantes dans les travaux de l'OTIF (OTIF-22002-JUR 2)

adoptée par la Commission ad hoc sur les questions juridiques et la coopération internationale à sa 2^e session, le 5 avril 2022

La Commission ad hoc sur les questions juridiques et la coopération internationale,

vu le but de l'Organisation intergouvernementale pour les transports internationaux ferroviaires (OTIF) de favoriser, améliorer et faciliter, à tout point de vue, le trafic international ferroviaire conformément à l'article 2, § 1, de la Convention relative aux transports internationaux ferroviaires du 9 mai 1980 dans la teneur du Protocole du 3 juin 1999 (COTIF) ;

vu l'article 13, l'article 14, § 7, et l'article 16, § 5 de la COTIF ;

vu le point 7.5 du document final de la 15^e session de l'Assemblée générale (OTIF-21001-AG 15, 29 septembre 2021) ;

considérant que pour atteindre le but de l'OTIF, une implication effective des parties prenantes de l'OTIF est requise ;

considérant que les parties prenantes jouent un rôle crucial dans l'élaboration des instruments juridiques internationaux, leur application, leur veille et leur évaluation ;

rappelant que selon la « Décision sur la veille et

Empfehlung zur Einbindung von Interessengruppen in die Arbeit der OTIF (OTIF-22002-JUR 2)

angenommen vom Ad-hoc-Ausschuss für Rechtsfragen und internationale Zusammenarbeit auf seiner 2. Tagung am 5. April 2022

Der Ad-hoc-Ausschusses für Rechtsfragen und internationale Zusammenarbeit,

gestützt auf das Ziel der Zwischenstaatlichen Organisation für den internationalen Eisenbahnverkehr, den internationalen Eisenbahnverkehr in jeder Hinsicht zu fördern, zu verbessern und zu erleichtern (Artikel 2 § 1 des Übereinkommens über den internationalen Eisenbahnverkehr vom 9. Mai 1980 in der Fassung des Protokolls vom 3. Juni 1999) (COTIF) ;

gestützt auf Artikel 13, 14 § 7 und 16 § 5 COTIF ;

gestützt auf Punkt 7.5 des Schlussdokuments der 15. Tagung der Generalversammlung (OTIF-21001-AG 15, 29. September 2021) ;

in der Erwägung, dass zur Erreichung des Ziels der OTIF eine effektive Einbindung der Interessengruppen erforderlich ist ;

in der Erwägung, dass die Interessengruppen eine entscheidende Rolle bei der Entwicklung internationaler Instrumente, ihrer Anwendung sowie ihrer Überwachung und Bewertung spielen ;

unter Hinweis darauf, dass eine erfolgreiche

Recommendation on involving stakeholders in OTIF's work (OTIF-22002-JUR 2)

adopted by the ad hoc Committee on Legal Affairs and International Cooperation at its 2nd session on 5 April 2022

The ad hoc Committee on Legal Affairs and International Cooperation,

Having regard to the aim of the Intergovernmental Organisation for International Carriage by Rail (OTIF) to promote, improve and facilitate, in all respects, international traffic by rail as defined in Article 2 § 1 of the Convention concerning International Carriage by Rail of 9 May 1980 in the version of the Protocol of 3 June 1999 (COTIF) ;

Having regard to COTIF Articles 13, 14 § 7 and 16 § 5 ;

Having regard to point 7.5 of the Final Document of the 15th session of the General Assembly (OTIF-21001-AG 15, 29 September 2021) ;

Considering that in order to achieve OTIF's aim, the effective involvement of stakeholders is required ;

Considering that stakeholders play a crucial role in developing international instruments, applying them and monitoring and assessing them ;

Recalling that successful implementation of the

l'évaluation des instruments juridiques » (OTIF-21002-AG 15, 28 septembre 2021), le succès de la mise en œuvre de la veille et de l'évaluation des instruments juridiques dépend de l'implication et de la participation actives des parties prenantes intéressées, entre autres ;

soulignant que chaque organe de l'OTIF visé à l'article 13 de la COTIF est chargé d'établir ses propres règles pour l'implication des parties prenantes selon les conditions prévues dans la COTIF et son propre règlement intérieur ;

déterminée à établir une politique cadre efficace, inclusive, non discriminatoire et transparente pour l'implication des parties prenantes dans les travaux de l'OTIF ;

a adopté la présente recommandation :

1. Introduction

1.1. Le but de l'OTIF est mis en œuvre via l'adoption d'instruments juridiques, c'est-à-dire la Convention et tout autre acte juridiquement contraignant ou non contraignant adopté par les organes de l'OTIF¹.

Umsetzung der Überwachung und Bewertung von Rechtsinstrumenten gemäß dem „Beschluss zur Überwachung und Bewertung von Rechtsinstrumenten“ (OTIF-21002-AG 15, 28. September 2021) unter anderem von der aktiven Beteiligung und Mitwirkung der relevanten Interessengruppen abhängt;

unter Hinweis darauf, dass jedes der in Artikel 13 COTIF genannten Organe der OTIF für die Festlegung seiner Vorschriften für die Einbindung von Interessengruppen gemäß den im COTIF und in seiner jeweiligen Geschäftsordnung festgelegten Bedingungen zuständig ist;

entschlossen, einen transparenten, nicht diskriminierenden, integrativen und effizienten Rahmen für die Einbindung von Interessengruppen in die Arbeit der OTIF zu schaffen;

hat folgende Empfehlung angenommen:

1. Einleitung

1.1 Das Ziel der OTIF wird durch die Annahme von Rechtsinstrumenten umgesetzt, d. h. durch das Übereinkommen oder jeden anderen, von den Organen der OTIF angenommenen verbindlichen oder

monitoring and assessment of legal instruments depends on the active involvement and participation of, among others, relevant stakeholders in accordance with the 'Decision on the monitoring and assessment of legal instruments' (OTIF-21002-AG 15, 28 September 2021);

Emphasising that each OTIF organ referred to in COTIF Article 13 is responsible for establishing its rules for involving stakeholders under conditions laid down in COTIF and its respective Rules of Procedure;

Determined to establish a transparent, non-discriminatory, inclusive and efficient framework policy for involving stakeholders in the work of OTIF;

Has adopted this Recommendation:

1. Introduction

1.1. The aim of OTIF is implemented by the adoption of legal instruments, i.e. the Convention or any other legally binding or non-binding act adopted by OTIF organs¹.

¹ Voir article premier de la « Décision sur la veille et l'évaluation des instruments juridiques » (OTIF-21002-AG 15, 28 septembre 2021) et les « Notes explicatives relatives à la décision sur la veille et l'évaluation des instruments juridiques » (OTIF-21003-AG 15, 28 septembre 2021).

Siehe Artikel 1 des „Beschlusses zur Überwachung und Bewertung von Rechtsinstrumenten“ (OTIF-21002-AG 15, 28. September 2021) und „Erläuternde Anmerkungen zum Beschluss zur Überwachung und Bewertung von Rechtsinstrumenten“ (OTIF-21003-AG 15, 28. September 2021).

See Article 1 of 'Decision on the monitoring and assessment of legal instruments' (OTIF-21002-AG 15, 28 September 2021) and 'Explanatory notes on the decision on the monitoring and assessment of legal instruments' (OTIF-21003-AG 15, 28 September 2021).

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| <p>1.2 La compétence pour l'élaboration, l'adoption, la veille et l'évaluation des instruments juridiques de l'OTIF est partagée entre les organes visés à l'article 13 de la COTIF ou les organes établis par eux.</p> <p>1.3 Au sens large, une partie prenante est toute personne physique ou morale concernée par les instruments juridiques ou qui leur porte un intérêt légitime. Aux fins de la présente Recommandation, seuls les instruments juridiques relevant du domaine du transport ferroviaire sont pertinents. Par conséquent, dans la pratique, les parties prenantes sont différents acteurs concernés par les instruments juridiques (voyageurs, entreprises ferroviaires, gestionnaires d'infrastructure, etc.) ou qui leur portent un intérêt légitime (associations nationales ou internationales représentant des entreprises ferroviaires, gestionnaires d'infrastructure, etc.). De plus, les établissements universitaires, les universitaires, les chercheurs et les experts au sens large peuvent porter un intérêt professionnel aux instruments juridiques pertinents de l'OTIF².</p> | <p>unverbindlichen Rechtsakt.¹</p> <p>1.2 Die Zuständigkeit für die Ausarbeitung, Annahme, Überwachung und Bewertung von Rechtsinstrumenten der OTIF ist auf die in Artikel 13 COTIF genannten Organe oder die von ihnen eingerichteten Organe verteilt.</p> <p>1.3 Eine Interessengruppe ist im weitesten Sinne eine natürliche oder juristische Person, die von den Rechtsinstrumenten der OTIF betroffen ist oder ein berechtigtes Interesse an ihnen hat. Für die Zwecke dieser Empfehlung sind nur Rechtsinstrumente im Bereich des Eisenbahnverkehrs von Bedeutung. Folglich handelt es sich bei den Interessengruppen praktisch um verschiedene Akteure, die von den Rechtsinstrumenten betroffen sind (u. a. Fahrgäste, Eisenbahnunternehmen, Infrastrukturbetreiber) oder ein berechtigtes Interesse an ihnen haben (u. a. nationale oder internationale Verbände zur Vertretung von Eisenbahnunternehmen, Infrastrukturbetreibern). Darüber hinaus können akademische Einrichtungen, Wissenschaftler, Forscher und Sachverständige im weitesten Sinne ein berufliches Interesse an den einschlägigen Rechtsinstrumenten der OTIF haben.²</p> | <p>1.2. The competence for developing, adopting, monitoring and assessing OTIF legal instruments is divided among the organs referred to in COTIF Article 13 or the organs established by them.</p> <p>1.3. A stakeholder, in a broad sense, means a natural or legal person affected by OTIF's legal instruments or with a legitimate interest in them. For the purpose of this Recommendation, only legal instruments in the area of railway transport are relevant. Consequently, in practical terms, stakeholders are different actors affected by legal instruments (such as passengers, railway undertakings, infrastructure managers, etc.) or having a legitimate interest in them (such as national or international associations representing railway undertakings, infrastructure managers, etc.). Moreover, academic institutions, academics, researchers and experts in a broad sense may have a professional interest in relevant OTIF legal instruments.²</p> |
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² Ibid., article premier. / Ebd. Artikel 1. / Ibid., Article 1.

2. Étendue de l'implication des parties prenantes dans les travaux de l'OTIF

- 2.1. Au vu du grand nombre de parties prenantes individuelles (p. ex. voyageurs, transporteurs, etc.), l'OTIF ne peut pas impliquer activement chacune d'entre elles individuellement. Toutefois, cela n'empêche pas ces parties prenantes individuelles de participer directement aux consultations ouvertes ou de s'impliquer dans les travaux de l'OTIF via des associations internationales. Par conséquent, les organes de l'OTIF devraient développer et structurer des modalités d'implication active des associations internationales représentant les intérêts du secteur ferroviaire (p. ex. voyageurs, transporteurs, etc.) ainsi que des établissements universitaires, des chercheurs et des experts du transport ferroviaire.
- 2.2 Le but de l'implication des parties prenantes est de les associer activement à l'élaboration, l'application, la diffusion, la promotion, la veille et l'évaluation des instruments juridiques de l'OTIF dans le domaine du transport ferroviaire.
- 2.3 Même si la coopération avec les organisations intergouvernementales pertinentes dans le domaine des transports ou d'autres domaines connexes revêt également une importance cruciale, elle devrait continuer à faire l'objet d'accords particuliers écrits ou verbaux.

2. Umfang der Einbindung von Interessengruppen in die Arbeit der OTIF

- 2.1 In Anbetracht der großen Anzahl einzelner Interessenvertreter (z. B. Fahrgäste, Beförderer usw.) kann die OTIF nicht aktiv jeden einzelnen von ihnen einbinden. Dies schließt jedoch nicht aus, dass einzelne Interessenvertreter direkt an offenen Konsultationen teilnehmen oder über internationale Verbände in die Arbeiten der OTIF eingebunden werden. Folglich sollten die Organe der OTIF einen Rahmen für eine aktive Einbindung der internationalen Verbände, die die Interessen des Eisenbahnsektors (z. B. Fahrgäste, Beförderer usw.) vertreten, sowie der akademischen Einrichtungen, Wissenschaftler, Forscher und Sachverständigen im Eisenbahnverkehr entwickeln und gestalten.
- 2.2 Ziel der Einbindung von Interessengruppen ist es, diese aktiv in die Entwicklung, Anwendung, Verbreitung, Förderung, Überwachung und Bewertung der Rechtsinstrumente der OTIF im Bereich des Eisenbahnverkehrs einzubeziehen.
- 2.3 Auch wenn die Zusammenarbeit mit einschlägigen zwischenstaatlichen Organisationen im Verkehrsbereich oder in anderen Bereichen, die eine Schnittstelle zum Eisenbahnverkehr haben, ebenfalls von entscheidender Bedeutung ist, sollte diese Zusammenarbeit weiterhin Gegenstand spezifischer schriftlicher oder

2. Extent of involvement of stakeholders in the work of OTIF

- 2.1. Considering the large number of individual stakeholders (e.g. passengers, carriers, etc.), OTIF cannot actively involve each of them individually. However, that does not preclude such individual stakeholders from participating in open consultations directly or from being involved in the work of OTIF through international associations. Consequently, OTIF organs should develop and structure the active involvement of international associations representing the interests of the railway sector (e.g. passengers, carriers etc.) and academic institutions, academics, researchers and experts in railway transport.
- 2.2. The purpose of involving stakeholders is to include them actively in developing, applying, disseminating, promoting, monitoring, and assessing OTIF's legal instruments in the area of railway transport.
- 2.3. Even though cooperation with relevant intergovernmental organisations in the area of transport or in other areas that have an interface with railway transport is also of crucial importance, such cooperation should remain subject to specific written or unwritten agreements.

3. Principes de l'implication des parties prenantes dans les travaux de l'OTIF

- 3.1 L'implication des parties prenantes dans les travaux de l'OTIF devrait respecter les principes suivants :
- a) conformité à la COTIF, en particulier au but, à la structure institutionnelle et aux règles de prise de décision de l'OTIF ;
 - b) ne pas compromettre le statut juridique de l'OTIF en tant qu'organisation intergouvernementale indépendante, sa réputation et sa crédibilité ;
 - c) respect mutuel et intégrité ;
 - d) proportionnalité, transparence, non-discrimination et inclusivité pour une représentation large et équilibrée des parties prenantes ;
 - e) légalité, fiabilité et exactitude de la conduite et des contributions des parties prenantes ;
 - f) non-rémunération de la participation des parties prenantes aux activités de l'OTIF.

nicht schriftlicher Vereinbarungen sein.

3. Grundsätze für die Einbindung von Interessengruppen in die Arbeit der OTIF

- 3.1 Die Einbindung von Interessengruppen in die Arbeit der OTIF sollte den folgenden Grundsätzen folgen:
- a) Übereinstimmung mit dem COTIF, insbesondere mit dem Ziel, der institutionellen Struktur und den Vorschriften zur Entscheidungsfindung der OTIF;
 - b) Nichtgefährdung der Rechtsstellung der OTIF als unabhängige zwischenstaatliche Organisation, ihres Ruf und ihrer Glaubwürdigkeit;
 - c) gegenseitiger Respekt und Integrität;
 - d) Verhältnismäßigkeit, Transparenz, Nichtdiskriminierung und Einbeziehung einer breiten und ausgewogenen Vertretung der Interessengruppen;
 - e) Rechtmäßigkeit, Zuverlässigkeit und Korrektheit des Verhaltens und der Beiträge der Interessengruppen;
 - f) Nichtvergütung der Beteiligung der Interessengruppen an den einschlägigen Aktivitäten der OTIF.

3. Principles for involving stakeholders in the work of OTIF

- 3.1. The following principles should be complied with in involving stakeholders in the work of OTIF:
- a) compliance with COTIF, in particular, OTIF's aim, institutional structure and decision-making rules;
 - b) without compromising OTIF's legal status as an independent intergovernmental organisation, its reputation and credibility;
 - c) mutual respect and integrity;
 - d) proportionality, transparency, non-discrimination and inclusiveness of a broad and balanced representation of stakeholders;
 - e) Stakeholders' conduct and input should be lawful, credible and accurate;
 - f) Stakeholders' participation in relevant OTIF activities will not be remunerated.

4. Parties prenantes enregistrées

4.1 Les associations internationales représentant les intérêts du secteur ferroviaire ainsi que les établissements universitaires, les universitaires, les chercheurs et les experts du transport ferroviaire portant un intérêt légitime aux activités pertinentes de l'OTIF et souhaitant y contribuer peuvent demander le statut de partie prenante enregistrée au sein d'un organe particulier de l'OTIF en soumettant un formulaire de demande.

4.2 Aux fins de l'enregistrement, un formulaire de demande contenant au minimum les informations suivantes devrait être soumis au secrétariat de l'organe compétent de l'OTIF :

- a) nom d'une personne physique ou morale ;
- b) statut juridique ;
- c) domaine(s) d'activité ;
- d) membres et conditions d'adhésion dans le cas d'une association internationale ;
- e) déclaration des domaines d'intérêt légitime dans les activités de l'OTIF ;
- f) adhésion aux principes énoncés au

4. Registrierte Interessengruppen

4.1 Internationale Verbände, die die Interessen des Eisenbahnsektors vertreten, sowie akademische Einrichtungen, Wissenschaftler, Forscher und Sachverständige im Eisenbahnverkehr, die ein berechtigtes Interesse an den einschlägigen Aktivitäten der OTIF haben und einen Beitrag dazu leisten möchten, können durch Einreichung eines Antragsformulars den Status einer registrierten Interessengruppe in einem bestimmten Organ der OTIF beantragen.

4.2 Für die Registrierung ist ein Antragsformular beim Sekretariat des zuständigen OTIF-Organs einzureichen, das mindestens die folgenden Angaben enthält:

- a) Name der natürlichen oder juristischen Person;
- b) Rechtsstatus;
- c) Tätigkeitsfeld(er);
- d) im Falle von internationalen Verbänden Mitglieder und Bedingungen für die Mitgliedschaft;
- e) Erklärung über die Bereiche des berechtigten Interesses an den Tätigkeiten der OTIF;
- f) Bekenntnis zu den in Punkt 3

4. Registered stakeholders

4.1. International associations representing the interests of the railway sector and academic institutions, academics, researchers and experts in railway transport having a legitimate interest in and wishing to contribute to relevant OTIF activities may apply for the status of registered stakeholder in a particular organ of OTIF by submitting an application form.

4.2. In order to register, an application form should be submitted to the Secretariat of the relevant OTIF organ containing at least the following information:

- a) name of a natural or legal person;
- b) legal status;
- c) area(s) of activities;
- d) membership and conditions for membership in case of international associations;
- e) declaration of the areas of legitimate interest in OTIF activities;
- f) commitment to the principles set

<p>point 3 ;</p> <p>g) engagement à contribuer à l'élaboration, à l'application, à la diffusion, à la promotion, à la veille et/ou à l'évaluation des instruments juridiques de l'OTIF ;</p> <p>h) point de contact (nom, titre, coordonnées) dans le cas d'une personne morale.</p>	<p>genannten Grundsätzen;</p> <p>g) Verpflichtung, einen Beitrag zur Ausarbeitung, Anwendung, Verbreitung, Förderung, Überwachung und/oder Bewertung der Rechtsinstrumente der OTIF zu leisten;</p> <p>h) im Falle einer juristischen Person eine Kontaktstelle (Name, Titel, Kontaktangaben).</p>	<p>out in point 3;</p> <p>g) commitment to contribute to developing, applying, disseminating, promoting, monitoring, and/or assessing OTIF's legal instruments;</p> <p>h) a focal point (name, title, contact details) in case of a legal person.</p>
<p>4.3 Le secrétariat de l'organe compétent de l'OTIF devrait examiner la conformité aux exigences formelles. L'organe compétent de l'OTIF devrait accorder le statut de partie prenante enregistrée sur la base de la demande soumise, en tenant compte de l'avis du Secrétariat. Dans la mesure du possible, de telles décisions devraient être prises par voie de procédure écrite tacite et par consensus. Un délai d'objection d'au moins 14 jours doit être accordé aux membres de l'organe concerné de l'OTIF à compter du moment où le Secrétariat soumet la demande pour décision. S'il y a au moins une objection, l'organe concerné de l'OTIF devrait examiner la demande en question à sa session suivante.</p>	<p>4.3 Das Sekretariat des zuständigen OTIF-Organs sollte die Einhaltung der formalen Anforderungen prüfen. Das zuständige OTIF-Organ sollte auf der Grundlage des Antrags und unter Berücksichtigung der Meinung des Sekretariats den Status einer registrierten Interessengruppe gewähren. Soweit möglich, sollten solche Entscheidungen im Wege eines schriftlichen, stillschweigenden Verfahrens und im Konsens getroffen werden. Den Mitgliedern des zuständigen OTIF-Organs müssen ab der Übermittlung eines Antrags durch das Sekretariat mindestens 14 Tage zur Einlegung von Widersprüchen gegeben werden. Liegt mindestens ein Widerspruch vor, sollte das zuständige Organ der OTIF den betreffenden Antrag bei seiner nächsten Tagung prüfen.</p>	<p>4.3. The Secretariat of the relevant OTIF organ should examine compliance with the formal requirements. The relevant OTIF organ should grant the status of registered stakeholder on the basis of the application, taking into account the opinion of the Secretariat. To the extent possible, such decisions should be taken by means of a written tacit procedure and by consensus. The members of the relevant OTIF organ must be given at least 14 days from the submission by the Secretariat of an application for decision to express their objections. If there is at least one objection, the relevant OTIF organ should consider the application in question at its next session.</p>
<p>4.4 L'organe compétent de l'OTIF peut suspendre ou révoquer le statut de partie prenante enregistrée en appliquant par analogie la procédure définie au point 4.3, en cas de non-conformité aux principes</p>	<p>4.4 Das zuständige Organ der OTIF kann bei Nichteinhaltung der in Punkt 3 genannten Grundsätze den Status der registrierten Interessengruppe unter entsprechender Anwendung des in Punkt 4.3 beschriebenen</p>	<p>4.4. The relevant OTIF organ may suspend or revoke the status of registered stakeholder by applying - mutatis mutandis - the procedure set out in point 4.3 in case of non-compliance with the</p>

énoncés au point 3.

4.5 Le secrétariat de chaque organe concerné de l'OTIF devrait :

- a) préparer un formulaire de demande pour les personnes physiques ou morales souhaitant devenir parties prenantes enregistrées ;
- b) recevoir les demandes, les examiner à titre préliminaire et les soumettre pour décision à l'organe concerné de l'OTIF ;
- c) tenir et publier sur le site Internet de l'OTIF la liste des parties prenantes enregistrées. Les coordonnées personnelles ne seront toutefois pas publiées.

5. Droits des parties prenantes enregistrées

5.1 Eu égard à leurs domaines d'intérêt déclarés (voir point 4.2), les parties prenantes enregistrées devraient :

- a) être invitées en qualité d'observateurs aux réunions pertinentes de l'OTIF, dans leur intégralité ou en partie, sans aucune procédure administrative supplémentaire ;
- b) être autorisées à soumettre et présenter des positions sur les sujets discutés par les organes de l'OTIF, à condition que ces

Verfahrens aussetzen oder widerrufen.

4.5 Das Sekretariat des jeweiligen Organs der OTIF sollte:

- a) ein Formular für den Antrag einer natürlichen oder juristischen Person auf den Status einer registrierten Interessengruppe erstellen;
- b) die Anträge entgegennehmen, vorläufig prüfen und dem zuständigen OTIF-Organ zur Entscheidung vorlegen;
- c) eine Liste der registrierten Interessengruppen führen und auf der Website der OTIF veröffentlichen. Die persönlichen Kontaktdaten werden jedoch nicht öffentlich zugänglich sein.

5. Rechte registrierter Interessengruppen

5.1 In Übereinstimmung mit ihren erklärten Interessengebieten (siehe Punkt 4.2) sollten die registrierten Interessengruppen

- a) ohne zusätzliche Verwaltungsverfahren als Beobachter zu einschlägigen OTIF-Tagungen oder Teilen davon eingeladen werden;
- b) berechtigt sein, Stellungnahmen zu den von den OTIF-Organen behandelten Themen abzugeben und vorzutragen, sofern die

principles set out in point 3.

4.5. The Secretariat of a relevant OTIF organ should:

- a) prepare an application form for the natural or legal person wishing to become a registered stakeholder;
- b) receive, preliminarily examine and submit the applications to the relevant OTIF organ for decision;
- c) maintain and publish on OTIF's website the list of registered stakeholders. However, personal contact details will not be publicly available.

5. Rights of registered stakeholders

5.1. In accordance with their declared areas of interest (see point 4.2), registered stakeholders should be

- a) invited to relevant OTIF meetings or parts of them as observers without any additional administrative procedures;
- b) authorised to submit and present opinions with regard to subjects discussed by OTIF organs, provided that these discussions

<p>discussions ne soient pas limitées aux membres de l'OTIF ;</p> <p>c) avoir la possibilité de soumettre une position écrite avant que l'organe concerné de l'OTIF prenne une décision par voie de procédure écrite sur des propositions de modifications à la COTIF ou au Rapport explicatif. Un délai d'au moins 14 jours à compter de la date de réception des projets de propositions du Secrétariat devrait être autorisé pour la soumission d'une telle position. Les positions reçues devraient être jointes aux propositions soumises pour décision par voie de procédure écrite ;</p> <p>d) avoir la possibilité de suggérer des questions à examiner dans le cadre d'un programme ou d'une réunion particulière ;</p> <p>e) être consultées et activement impliquées dans les activités pertinentes de l'OTIF comme les consultations écrites et la collecte de données aux fins de la veille et de l'évaluation des instruments juridiques.</p>	<p>Beratungen nicht auf die Mitglieder der OTIF beschränkt sind;</p> <p>c) die Möglichkeit erhalten, eine schriftliche Stellungnahme abzugeben, bevor das zuständige OTIF-Organ im schriftlichen Verfahren über Vorschläge oder Änderungen des COTIF oder der dazugehörigen Erläuternden Bemerkungen entscheidet. Die Frist für die Abgabe einer solchen Stellungnahme sollte mindestens 14 Tage betragen, gerechnet ab dem Zeitpunkt der Zustellung des Vorschlagsentwurfs durch das Sekretariat. Die eingegangenen Stellungnahmen sollten den Vorschlägen beigefügt werden, die im schriftlichen Verfahren zur Entscheidung vorgelegt werden;</p> <p>d) die Möglichkeit erhalten, Themen für ein Arbeitsprogramm oder eine spezifische Tagung vorzuschlagen;</p> <p>e) konsultiert und aktiv in relevante OTIF-Aktivitäten wie schriftliche Konsultationen und Datenerhebungen für die Überwachung und Bewertung von Rechtsinstrumenten eingebunden werden.</p>	<p>are not restricted to OTIF members;</p> <p>c) given the opportunity to submit a written opinion before the relevant OTIF organ takes a decision by written procedure on proposals for or modification to COTIF or the Explanatory Report to it. At least 14 days should be allowed to submit such an opinion from the date of receipt of draft proposals from the Secretariat. The opinions received should be attached to proposals submitted for decision by written procedure;</p> <p>d) given the opportunity to suggest subjects for consideration for a work programme or particular meeting;</p> <p>e) consulted and actively involved in relevant OTIF activities, such as written consultations, data collection for the monitoring and assessment of legal instruments.</p>
<p>5.2 Les droits prévus au point 5.1 sont sans préjudice de la COTIF et du règlement intérieur applicable, en particulier du fait que l'accès à certaines réunions ou certaines de</p>	<p>5.2 Die Rechte in Punkt 5.1 gelten unbeschadet des COTIF und der geltenden Geschäftsordnung, insbesondere der Tatsache, dass bestimmte Tagungen oder</p>	<p>5.2. The rights in point 5.1 are without prejudice to COTIF and applicable Rules of Procedure, in particular, the fact that certain meetings or parts of</p>

leurs parties, ainsi qu'aux documents, peut être limité aux membres de l'OTIF.

6. Recommendations finales

- 6.1 Si plusieurs organes de l'OTIF décident d'appliquer la présente recommandation, le Secrétariat de l'OTIF devrait envisager d'harmoniser sa mise en œuvre et de consolider les listes des observateurs enregistrés, si cela peut être utile.
- 6.2 Les parties prenantes enregistrées sont invitées à partager leurs expériences sur l'utilisation de la présente recommandation.

Teile davon sowie Dokumente auf OTIF-Mitglieder beschränkt sein können.

6. Abschließende Empfehlungen

- 6.1 Falls mehrere OTIF-Organen beschließen, diese Empfehlung anzuwenden, sollte das Sekretariat der OTIF erwägen, sofern sinnvoll, ihre Umsetzung zu harmonisieren und die Listen der registrierten Beobachter zu konsolidieren.
- 6.2 Registrierte Interessengruppen werden gebeten, ihre Erfahrungen mit der Anwendung dieser Empfehlung mitzuteilen.

them, as well as documents, may be restricted to OTIF members.

6. Final recommendations

- 6.1. If several OTIF organs decide to apply this Recommendation, the Secretariat of OTIF should consider harmonising its implementation and consolidating the lists of registered observers, if this would be useful.
- 6.2. Registered stakeholders are invited to share their experience about the use of this Recommendation.