



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

---

**Secrétaire général**  
**Generalsekretär**  
**Secretary General**

**NOT-22023**  
**31.03.2022**

Original : EN

**TO THE MEMBER STATES AND ASSOCIATE MEMBERS OF OTIF AND  
TO REGIONAL ORGANISATIONS WHICH HAVE ACCEDED TO COTIF**

---

**Depositary notification**

Letter of the Ambassador of Ukraine to Switzerland

In his capacity as the Depositary, the Secretary General of the Intergovernmental Organisation for International Carriage by Rail (OTIF) notifies you of the following information:

On 14 March 2022, the Secretary General received a letter signed by the Ambassador of Ukraine to Switzerland (annexed), requesting him in particular:

*‘to support the exclusion of the Russian Federation from the Intergovernmental Organisation for International Carriage by Rail (OTIF)’.*

The Secretary General wishes to draw attention to the following:

1. In accordance with Article 2 § 1 of the [Convention concerning International Carriage by Rail \(COTIF\)](#) *‘[t]he aim of the Organisation shall be to promote, improve and facilitate, in all respects, international traffic by rail [...]’.*
2. A State becomes a Member State of OTIF by acceding to COTIF in accordance with Article 37 of COTIF.
3. Article 26 § 7 of COTIF sets out sanctions for a Member State that defaults on the payment of its contributions to the budget: interest on the debt, suspension of voting rights and denunciation of the Convention. This is the only provision of COTIF that prescribes sanctions for breach of the Convention. In other words, there are no sanctions, such as exclusion, on grounds other than COTIF Article 26 § 7.
4. Any request to exclude a Member State from OTIF qualifies as a request to terminate the treaty with that State.
5. In its [Advisory Opinion of 21 June 1971 ‘Legal Consequences for States of the Continued Presence of South Africa in Namibia \(South West Africa\) notwithstanding Security Council Resolution 276 \(1970\)’](#) the International Court of Justice stated, inter alia, the following:
 

*‘96. [...] it would be necessary to show that the mandates system as established under the League, excluded the application of the general principle of law that a right of termination on account of breach must be presumed to exist in respect of all treaties, except as regards provisions relating to the protection of the human person contained in treaties of a humanitarian character (as indicated in Art. 60, para. 5, of the Vienna Convention). The silence of a treaty as to the existence of such a right cannot be interpreted as implying the exclusion of a right which has its source outside of the treaty, in general international law, and is dependent on the occurrence of circumstances which are not normally envisaged when a treaty is concluded.’*
6. COTIF is a treaty within the meaning of that term as defined in the 1969 Vienna Convention on the Law of Treaties (hereafter 1969 Vienna Convention).
7. Article 60 ‘Termination or suspension of the operation of a treaty as a consequence of its breach’ of the 1969 Vienna Convention provides, inter alia, the following:
 

*‘2. A material breach of a multilateral treaty by one of the parties entitles: [...]*

*(a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it [...]:*

*[...]*

*(ii) as between all the parties [...]*

*3. A material breach of a treaty, for the purposes of this article, consists in:*

*(a) a repudiation of the treaty not sanctioned by the present Convention; or*

*(b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty.*

*4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach. [...]*

8. In its Advisory Opinion of 21 June 1971 (see point 5 above), the International Court of Justice stated that:

*'94. [...] The rules laid down by the Vienna Convention on the Law of Treaties concerning termination of a treaty relationship on account of breach (adopted without a dissenting vote) may in many respects be considered as a codification of existing customary law on the subject. [...]*

9. In its [Judgment of 25 September 1997 'Gabčíkovo-Nagymaros Project \(Hungary/Slovakia\)'](#), the International Court of Justice stated, inter alia, the following:

*'106. [...] the Court is of the view that it is only a material breach of the treaty itself, by a State party to that treaty, which entitles the other party to rely on it as a ground for terminating the treaty. The violation of other treaty rules or of rules of general international law may justify the taking of certain measures, including countermeasures, by the injured State, but it does not constitute a ground for termination under the law of treaties.'*



(Wolfgang Küpper)  
Secretary General

**Annex:** Letter of the Ambassador of Ukraine to Switzerland

**cc:**

– **Embassy of Ukraine**  
Feldeggweg 5  
CH - 3005 Berne



*[Unofficial translation]*

*Ambassador Extraordinary  
and Plenipotentiary of Ukraine  
to the Swiss Confederation*

**Mr Wolfgang Küpper  
Secretary General  
Intergovernmental Organisation  
for International Carriage by Rail**

Berne, March 12, 2022

**Dear Mr Küpper,**

In view of the recent events concerning the open aggression of the Russian Federation against Ukraine, please allow me to express my sincere hope for the support of the Intergovernmental Organisation for International Carriage by Rail.

Ukraine is defending not only its own freedom and territorial integrity, but also the values that underlie the entire civilised world.

Recently, Russia has been committing horrific acts of terrorism in Ukraine every day:

- Mass murders of civilians (women, children, the elderly, etc.);
- Bombing of civilian infrastructure (schools, hospitals, kindergartens, maternity clinics, etc.);
- Seizure of nuclear energy facilities (Chernobyl nuclear power plant), which violates a number of international conventions in this field.

It is within the power and responsibility of the world community and all international organisations to properly assess the actions of the Russian Federation as an aggressor country, occupying country and international terrorist country. The Russian Federation must take full responsibility for such actions, not only against Ukraine, but also against the entire civilised world.

With reference to the above, I ask you to support the exclusion of the Russian Federation from the Intergovernmental Organisation for International Carriage by Rail (OTIF).

Please consider this letter as an official formal request from Ukraine.

Not only the lives and safety of Ukrainian citizens, but also the safety of citizens throughout Europe depend on our consolidated response.

**Respectfully,**

**Dr. Artem Rybchenko**