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Summary

Central Office Communications

Accession to COTIF

Federal Republic of Yugoslavia, p. 5

List of CIV lines, p. 5

List of CIM lines, p. 5

Dangerous Goods

RID/ADR Joint Meeting Working Group - Accident/incident

Bonn/Mainz, 30/31.8.2001 - p. 6

Technology

European Communities (EC)

European Commission - Brussels, 28.9.2001 - p. 12

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Central Office Communications

Accession to COTIF

Federal Republic of Yugoslavia

The Central Office, as the Secretariat of the Intergovernmental Organisation for International Carriage by Rail (OTIF), which since 3 June 1999 performs the functions of the Provisional Depository (Art. 2 § 1 of the Protocol of 3 June 1999 for the Modification of COTIF), notified the Governments of the OTIF Member States on 25 January 2001 of the Federal Republic of Yugoslavia's application for accession to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 (see Bulletin 1/2001, p. 1). Following expiry of the six month period prescribed in the Convention, the Central Office can confirm that after consulting the Member States, no objections were lodged.

In its circular of 22 June 2001, the Central Office notified the Member States of the Federal Republic of Yugoslavia's list of lines in accordance with Article 23 § 2, para. 4, in conjunction with Article 10 of COTIF. As the instrument of accession, dated 19 January 2001, had already also been deposited, all the conditions were met. The accession of the Federal Republic of Yugoslavia therefore came into effect on 1 August 2001, i.e. on the first day of the second month following the month in

which the Central Office notified the Member States of the list of lines of the new Member State.

As accession was applied for after the 1999 Protocol was opened for signature and before its entry into force, it applies both to the 1980 COTIF and to the 1999 Protocol version of the Convention (Art. 3 § 4 of the 1999 Protocol).

List of CIV lines (published on 1 May 1985)

Central Office circular No. 50 of 22 June 2001

Chapter "Yugoslavia"

As the Federal Republic of Yugoslavia deposited its instrument of accession to COTIF on 19 January 2001, a new chapter has been added to the list of lines. A new list of chapters has also been added. In accordance with COTIF article 23 § 2, last paragraph, this accession took effect on 1 August 2001 (see p. 5).

List of CIM lines (published on 1 May 1985)

Central Office circular No. 67 of 22 June 2001

Chapter "Yugoslavia"

As the Federal Republic of Yugoslavia deposited its instrument of accession to COTIF on 19 January 2001, a new chapter has been added to the list of lines. A new list of chapters has also been added. In accordance with COTIF article 23 § 2, last paragraph, this accession took effect on 1 August 2001 (see p. 5).

Dangerous Goods

RID/ADR Joint Meeting Working Group

Accident/incident
(Section 1.8.5 of the restructured RID/ADR)

Bonn/Mainz, 30/31 August 2001

At the invitation of Germany, the fourth and last meeting of the "Accident/incident" working group was held on 30/31 August 2001 (see also Bulletins 5/2000, p. 350 ff. and 1/2001, p. 5 ff.). The meeting was chaired by Mr Rein of the German Ministry of Transport, Construction and Housing (BMVBW).

Discussion of principles

The chairman reminded the meeting that the last Joint Meeting (Bern, 28.5-1.6.2001) (see also Bulletin 2/2001, p. 25 ff.) had adopted two decisions of principle:

1. RID and ADR should contain a **list of the minimum criteria** according to which a report is required. This should be an addition to section 1.8.5;
2. RID and ADR should contain a **model report** indicating the minimum requirements with regard to the information the competent authorities have to communicate to the secretariats.

He pointed out that at the Joint Meeting, the various criteria had not been discussed in detail and should therefore be discussed again.

Discussion of the various criteria according to which a report is required

The definition of an incident involving dangerous goods in accordance with section 1.8.5 and the associated criteria were again discussed in depth.

The proposal by the representative of the United Kingdom to allow individual Member States to make the criteria more stringent was not adopted.

As a result of the discussion, the existing criteria were amended as follows:

An addition was made to the general definition that makes clear that a notifiable, and therefore reportable, incident has occurred if "one or more" of the criteria listed has/have been met.

On a proposal from Norway, the "personal injury" criterion was supplemented by a further third sub-criterion ("intensive medical treatment") so that there would be a distinction between this and lesser injuries that only needed short hospital treatment.

Under the "risk of loss of product" criterion, the representative of Norway proposed replacing the quantity limits referred to up to now (333 kg/litres and 1000 kg/litres) with those in the table under RID 1.1.3.1(c)/ADR 1.1.3.6, as that system makes more of a distinction for lower quantities and the system is known. After lengthy discussion, the Norwegian proposal was adopted with the following quantity limits:

- goods of transport categories 0 and 1 = quantities equal to or more than 50 kg or litres
- goods of transport category 2 = quantities equal to or more than 333 kg or litres
- goods of transport categories 3 and 4 = quantities equal to or more than 1000 kg or litres.

Once again, in the light of the maximum limit in the US of \$50,000, the different levels of damages for the rail and road modes were discussed under the "material or environmental damage" criterion.

The representative of France proposed that as a compromise, a uniform amount of damages of 50,000 EURO should be applied and that damage caused by dangerous goods to the modal infrastructure and any means of transport containing dangerous goods directly involved should be excluded. This proposal was adopted by a majority.

It was also established that the damages in question should be "estimated" damages.

The proposal by the UIC representative to delete entirely the material/environmental damage criterion was not adopted.

There was further discussion on the "involvement of authorities" criterion concerning the duration of closure of "public traffic routes". The UIC representative was in favour of the six hour period provided for up to now being maintained. The majority was of the opinion that in practice, a three hour period was justified and that three hours also seemed realistic for rail transport.

It was also made clear that, for this purpose, shunting yards were also considered as "public traffic routes".

Particular requirements for Class 7

Compulsory reporting in principle for Class 7 was considered to be too far-reaching and was not therefore adopted.

In discussing amendment of the "personal injury" criteria by adding a limit value for radioactivity, it came to light that including the IAEA limit value (Safety Series No. 115) was not possible, because as a rule, carriers were not aware of what the limits were. It was also pointed out that in practice, it was hardly possible to establish personal injury by means of measurement. It was therefore decided not to make any changes here, because the proposal concerning the "loss of product" criterion offered a more reliable criterion in this instance.

There was no support for the proposed additional criterion of "theft and loss" under the "loss of product" criterion because this criterion does not as a rule arise during actual movement of the goods, but during loading, unloading or transshipment. Moreover, there is already a reporting system for the theft/loss of Class 7 radioactive material under IAEA.

However, it was proposed that the criteria should be amended so that reporting would be compulsory when, because of an increased dose value, an unusual amount of radioactivity was found. The representative of France would submit an appropriate proposal to amend the criteria to the Joint Meeting.

Who has to prepare the report?

The working group unanimously adopted FIATA's proposal on who has to prepare the report. According to this, the report does not necessarily have to be prepared by the carrier himself, but he must make sure that the

report is prepared (e.g. by insurance experts, the police, fire services).

Model report form in accordance with RID/ADR section 1.8.5.

The meeting agreed that the reporting carrier or reporting railway infrastructure manager should not remain anonymous when reporting to the competent authority, as the competent authority would not otherwise know the origin of the report.

However, when the report is passed on to the secretariats, anonymity should be maintained. FIATA suggested that the information concerning the reporting carrier or railway infrastructure manager should be contained in a separate covering sheet when the report was sent to the competent authority. But this information should not be recorded and the covering sheet should not be sent on to the secretariats.

The working group also decided that the "contact person" to be named should not be replaced by the "safety advisor" since it is quite possible that these reports could be prepared by people other than the safety advisor (e.g. for rail transport, the emergency control centre). Account was also taken of the fact that the safety advisor's duties lay within the undertaking, and if he had to make out a report for the competent authority, there could be a conflict of interests.

The outcome of the discussion on the entries under the "location of the incident" item was that there must be a different description of the location for road transport (built-up or rural area, name of road and kilometres) and rail transport (station, shunting station, open section and kilometres). Topographical aspects would also have to be taken into account, e.g. gradients/inclines, tunnels, bridges/underpasses and crossings. This should come under a new "topography" item.

The differentiated provision of information with regard to the aspects mentioned above is particularly necessary as a corresponding risk analysis can yield important information for developing the regulations.

A report on a reportable incident that occurs at a "loading/unloading/transshipment site" must be submitted by the carrier if he is directly involved and for this reason has the necessary information. For this reason, loading/unloading/transshipment sites should also be specified as the possible scene of an incident. The working group agreed that information on particular weather conditions, e.g. rain, snow, ice, fog, thunder-

storms, storms was pertinent in connection with the reporting of incidents.

For legal reasons concerning data protection, information on the "wagon number" and "vehicle registration" cannot be required. But as this information can be useful, e.g. for classification to an accident (also within undertakings), the working group recommended that this information be released.

The title "Dangerous Goods Carried" was amended to read "Dangerous Goods Involved". This was so that it would be clear that only those dangerous goods involved should be indicated. Indicating all the dangerous goods contained in the means of transport was not adopted.

Naming the goods and indicating the classification code was not considered necessary and was deleted.

The working group did not consider it necessary to indicate the starting point/destination of the transport operation (as in the American report form). Such information would not help much, especially in the case of transport operations in which goods were picked up at different points. In addition, in rail transport, only the consigning and receiving stations were indicated in the consignment note, but these would not necessarily be the same as the starting point/destination.

It was recommended that a code be used to indicate the different types of "means of containment". The meeting also adopted a proposal by the representative of France to indicate in code form the "type of failure of the means of containment", as well as the material of the means of containment. Describing the "sequence of events of an accident" was replaced by "description of the incident", where the particular type of incident could be indicated by ticking the relevant box (derailment/leaving the road, collision, tipping over/rolling over, fire, explosion, leakage, technical fault and other), and by the option of inserting additional details.

The working group was of the view that the question "were the dangerous goods the cause of the accident/incident?" should be deleted, because as a rule, this question is not answered by the carrier.

Under "cause of the incident (if clearly known)", "human error" and "third party fault" were deleted from the list of options to tick off so that the carrier should not be put in a position where he would have to accuse himself or his own employees.

Under "consequences of the incident", "personal injury" was amended by adding "in connection with the dangerous goods".

Under "loss of product", only the "estimated" quantity of the substance lost should be given.

Under "material/environmental damage", the estimated level of damage was amended by inserting "• 50,000 EURO" and "> 50,000 EURO" respectively.

The options "evacuation of persons for at least three hours owing to the presence of dangerous goods" and "closure of traffic routes for at least three hours owing to the presence of dangerous goods" were added under "involvement of authorities".

In discussions on the investigations of the matter the competent authorities should carry out, it was proposed to add a general sentence at the end of the report form to say that the competent authorities may request further relevant information if need be.

The Working Group's report and proposed texts were adopted by the Joint Meeting (Geneva, 10-14.9.2001) with minor amendments. A new sub-section 1.8.5.3 will be introduced into the 1 January 2003 edition of RID/ADR which will include the criteria for making it obligatory to prepare a report. A standardized report form will be included in a new sub-section 1.8.5.4, which will have to be used for reports prepared by carriers/railway infrastructure managers for the competent authorities. The wording adopted by the Joint Meeting is reproduced below.

"1.8.5.3 Add the following new paragraph:

"An occurrence subject to report in accordance with 1.8.5.1 has occurred if dangerous goods were released or if there was an imminent risk of loss of product, if personal injury, material or environmental damage occurred, or if the authorities were involved and one or more of the following criteria has/have been met:

Personal injury means an occurrence in which death or injury directly relating to the dangerous goods carried has occurred, and where the injury

- (a) requires intensive medical treatment, or
- (b) requires a stay in hospital of at least one day, or

- (c) results in the inability to work for at least three consecutive days.

Loss of product means the release of dangerous goods

- (a) of transport category 0 or 1 in quantities of 50 kg/50 l or more,
- (b) of transport category 2 in quantities of 333 kg/333 l or more, and
- (c) of transport category 3 or 4 in quantities of 1000 kg / 1000 l or more.

The loss of product criterion also applies if there was an imminent risk of loss of product in the above-mentioned quantities. As a rule, this has to be assumed if, owing to structural damage, the means of containment is no longer suitable for further carriage or if, for any other reason, a sufficient level of safety is no longer ensured (e.g. owing to distortion of tanks or containers, overturning of a tank or fire in the immediate vicinity).

If dangerous goods of Class 6.2 are involved, the obligation to report applies without quantity limitation.

In occurrences involving Class 7 material, the criteria for loss of product are:

- (a) Any release of radioactive material from the packages;
- (b) Exposure leading to a breach of the limits set out in the regulations for protection of workers and members of the public against ionizing radiation (Schedule II of IAEA Safety Series No. 115 – "International Basic Safety Standards for Protection Against Ionizing Radiation and for Safety of Radiation Sources");
- (c) Where there is reason to believe that there has been a significant degradation in any package safety function (containment, shielding, thermal protection or criticality) that may have rendered the package unsuitable for continued carriage without additional safety measures.

NOTE. See the requirements of 7.5.11 CV33/CW33 (6) for undeliverable consignments.

Material damage or environmental damage means the release of dangerous goods, irrespective of the quantity, where the estimated amount of damage exceeds 50,000 EURO. Damage to any directly involved means of transport containing dangerous goods and to the modal infrastructure shall not be taken into account for this purpose.

Involvement of authorities means the direct involvement of the authorities or emergency services during the occurrence involving dangerous goods and the evacuation of persons or closure of public traffic routes (roads/railways) for at least three hours owing to the danger posed by the dangerous goods.

If necessary, the competent authority may request further relevant information."

"1.8.5.4 Model for report on occurrences during the carriage of dangerous goods

Reporting carrier/ Reporting railway infrastructure operator: Address: Contact name: Telephone: Fax:

(The competent authority shall remove this cover sheet before forwarding the report!)

1. Mode	
<input type="checkbox"/> Rail Wagon number (optional)	<input type="checkbox"/> Road Vehicle registration (optional)
2. Location of occurrence	
<u>Rail</u> <input type="checkbox"/> Station <input type="checkbox"/> Shunting/marshalling yard <input type="checkbox"/> Loading/unloading/transshipment site Location with country code and post code: or <input type="checkbox"/> Open line description of line kilometres:	<u>Road</u> <input type="checkbox"/> Built-up area <input type="checkbox"/> Loading/unloading/transshipment site Location with country code and post code: or <input type="checkbox"/> Road road name: kilometres:
3. Topography	
<input type="checkbox"/> Gradient/incline <input type="checkbox"/> Tunnel <input type="checkbox"/> Bridge/Underpass <input type="checkbox"/> Crossing	
4. Particular weather conditions	
<input type="checkbox"/> Rain <input type="checkbox"/> Snow <input type="checkbox"/> Ice <input type="checkbox"/> Fog <input type="checkbox"/> Thunderstorm <input type="checkbox"/> Storm Temperature: °C	

5. Description of occurrence	
<input type="checkbox"/>	Derailment/Leaving the road
<input type="checkbox"/>	Collision
<input type="checkbox"/>	Overturning/Rolling over
<input type="checkbox"/>	Fire
<input type="checkbox"/>	Explosion
<input type="checkbox"/>	Loss
<input type="checkbox"/>	Technical fault
Additional description of occurrence:	
.....	
.....	
.....	
.....	

6. Dangerous goods involved						
UN Number ⁽¹⁾	Class	Packing Group	Estimated quantity of loss of products (kg or l) ⁽²⁾	Means of containment ⁽³⁾	Means of containment material	Type of failure of means of containment ⁽⁴⁾
⁽¹⁾ For dangerous goods assigned to collective entries to which special provision 274 applies, also the technical name shall be indicated.				⁽²⁾ For Class 7, indicate values according to the criteria in 1.8.5.3.		
⁽³⁾ Indicate the appropriate number 1 Packaging 2 IBC 3 Large packaging 4 Small container 5 Wagon 6 Vehicle 7 Tank-wagon 8 Tank-vehicle 9 Battery-wagon 10 Battery-vehicle 11 Wagon with demountable tanks 12 Demountable tank 13 Large container 14 Tank-container 15 MEGC 16 Portable tank				⁽⁴⁾ Indicate the appropriate number 1 Loss 2 Fire 3 Explosion 4 Structural failure		
7. Cause of occurrence (if clearly known)						
<input type="checkbox"/> Technical fault <input type="checkbox"/> Load security <input type="checkbox"/> Operational cause (rail operation) <input type="checkbox"/> Other:						

8. Consequences of occurrence			
<u>Personal injury in connection with dangerous goods:</u>			
<input type="checkbox"/>	Deaths (number:)		
<input type="checkbox"/>	Injured (number:.....)		
<u>Loss of product:</u>			
<input type="checkbox"/>	Yes		
<input type="checkbox"/>	No		
<input type="checkbox"/>	Imminent risk of loss of product		
<u>Material /Environmental damage</u>			
<input type="checkbox"/>	Estimated level of damage • •50,000 EURO		
<input type="checkbox"/>	Estimated level of damage > 50,000 EURO		
<u>Involvement of authorities:</u>			
<input type="checkbox"/>	Yes	<input type="checkbox"/>	Evacuation of persons for a duration of at least three hours caused by the dangerous goods involved
		<input type="checkbox"/>	Closure of public traffic routes for a duration of at least three hours caused by the dangerous goods involved
<input type="checkbox"/>	No		

If necessary, the competent authority may request further relevant information.

Technology

European Communities (EC)

European Commission

Brussels, 28 September 2001

In the course of the Committee for the interoperability of the trans-European rail system ("Article 21 Committee"), the Director General had the opportunity of presenting and supporting his point of view – published below. It became evident that there are still a lot of questions that now need to be clarified quickly so that OTIF/the Central Office can continue successfully with the preliminary work concerning the transposition of the new Appendices F and G to COTIF 1999. At the beginning of October, the Central Office sent out an invitation to a meeting to be held on 5 December 2001 in Bern, at which in particular these questions should be clarified.

“Significance and form of the COTIF rules for approval in the light of new EC legislation on rail sector interoperability and safety

The Central Office position

1. This concerns in particular the conventional rail system and the question of whether the COTIF system in accordance with the new Annexes F (APTU UR) and G (ATMF UR) rivals the EC system covering this area of regulation, and how it

can be ensured that the COTIF system acts in addition to Community law rather than in opposition to it, in a way that can bring extra benefits, and that can be applied over the whole area of application of COTIF.

2. At the time the "Vilnius decisions" were taken, when COTIF 1999 was brought into being, there were not yet any fully developed ideas on how the new rules for approval should be formulated and managed in concrete terms. Neither was it then as clear on the EC side as it is today what form its "new house" for the railway sector would take. However, the circumstances are now better for making judgements based on a state of affairs that has made sufficient progress, and for setting out a joint way ahead.
3. What the **European Commission's position** really comes down to can be summarized as follows:
 - EC rail sector legislation provides a consistent, comprehensive legal structure for the railways in the scope of EC law that requires no additions, and is not able to tolerate the presence of any rival legislation;
 - the COTIF rules for approval are unnecessary for the area covered by the EU Member States, the candidate states and the EEA;
 - it does not want Annexes 1-8 of APTU UR to be worked on now because this could give rise to duplication and confusion;

- basically, Annexes F and G of COTIF 1999 should now be revised and harmonized with EC law as it now stands;
 - in contrast, OTIF/COTIF's role as the "transmission belt" within and beyond the area of the EC Member States – in principle geographically unlimited, primarily though looking towards the remaining OSZHD Member States – is not in dispute. Apart from the new rules for approval, the other COTIF rules are not in dispute either, although they have given rise to certain questions. The need to align at some point also begins to emerge.
4. In comparison, the **position** of the **Central Office** attempts to take account of the task it was set in Vilnius and the interests of all the OTIF Member States, without calling into question the overarching importance of Community law.
- The consistency and importance of the EC's new legal structure is not in dispute. There is not the slightest intention of creating competing laws. The character of the European rail sector will be increasingly defined by EC law.
 - But the purpose of the Vilnius Protocol version of COTIF is nevertheless to create a generally binding framework open to all interested states, with a comprehensive view over what is needed for consistent regulation of international rail transport in the context of the European railways reform process. This framework, particularly as regards the new Appendices F and G of COTIF, is formulated, and can be developed, sufficiently flexibly that it can be directed at practical requirements for application within the entire area covered by the OTIF Member States, whilst the EC system forms the basis. There is no risk at all that this will not be achieved. The EC is fully aware of events surrounding the legal instruments that are anchored in COTIF, and their real, key role in OTIF's proposed Committee of Technical Experts.
 - The "EC House" also needs application related implementation instruments that have matured through practical experience, until the House is fully furnished and habitable. This will require the competent collaboration of a lot of people in a process that cannot just be passed down from above. The OTIF programme that provides for the APTU Annexes to be developed closely alongside the approval procedures applied by the national authorities, in parallel with the development of the TSIs for the conventional rail system and the EC approval system, therefore makes complete sense.
- It is really a matter of developing from the bottom upwards, with a clear focus on direct practical application. The experience of the railways will be fully used to achieve a broad consensus, with operational safety at its core.
 - It should be pointed out that responsibility for bringing railway equipment into operation and/or approving it remains with the Member States. The associated rules and procedures also need to be harmonized, otherwise it will not be possible to achieve interoperability in practice. OTIF can make a useful contribution in this respect.
 - With regard to their programmes for the TSIs for the conventional rail system, both UIC and AEIF consider OTIF action in this respect to be a useful contribution. There is no risk for the European Commission of rival regulations. In accordance with an Agreement dated 4 May 2000 between the European Commission, OTIF, CER and UIC, the TSIs will be assumed as the basis, without reservation. OTIF's action is aimed at broad additional benefits. The Commission is not involved in financing the work, but will profit from the outcome.
 - In addition to mobilizing the wealth of experience for the benefit of safe railway operations, the benefits of the outcome will result particularly from the opportunity of incorporating the railway inspectorate authorities' current experience and requirements into the development process for the APTU Annexes that has already begun, and this will apply throughout the entire OTIF area. This means all those states interested can already gain access and can sort out their requirements concerning the necessary flexibility, so that the COTIF system can be applied over as wide an area as possible.
 - For this very reason, it would not be the right moment to postpone the proposed OTIF programme. This would result in an unwanted loss of image and credibility for OTIF, since in principle, the role of OTIF/the COTIF approval system as a "transmission belt" within and beyond the scope of Community law is not in dispute.
 - A time advantage can also be expected. Parallel, iterative action by OTIF in addition to development of the TSIs for the conventional rail system can help shorten and facilitate the transitional period until full transposition of the EC legal structure, which period should not be underestimated.

5. **Conclusion**

The Central Office suggests that it be allowed to implement the proposed programme on the basis of an action plan settled with the European Commission, and to postpone judgement on how far the COTIF rules of approval must be adapted for them to be applied unambiguously and in a way that will be of benefit to everyone, until

- after the entry into force of COTIF 1999,
- the work has progressed in detail on both sides to such an extent that a better judgement can be made on what detailed adjustments are really meaningful and necessary.”