



Intergovernmental Organisation  
for International Carriage  
by Rail

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Bulletin  
of International  
Carriage  
by Rail

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**4/2002**

110th Year • October - December

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Central Office for International Carriage by Rail,  
Gryphenhübelweg 30, CH - 3006 Berne  
Phone : + 41 31 359 10 10  
Fax : + 41 31 359 10 11  
E-mail : [info@otif.org](mailto:info@otif.org)  
Internet : [www.otif.org](http://www.otif.org)

# 4/2002

110<sup>th</sup> year – October - December

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### Central Office Communications

#### Dutch version of the 1999 Protocol

Thanks to an initiative by the Netherlands and Belgium, the Secretariat of OTIF has a Dutch version of the Protocol of 3 June 1999 for the modification of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 as adopted by the 5<sup>th</sup> General Assembly of OTIF (Vilnius, 26.5.-3.6.1999). This translation shall be deemed to be an official translation within the meaning of Article 45 § 2 of the 1999 Protocol version of COTIF. It may be freely accessed on the OTIF website (heading Publications/Products). An officially approved copy is available from the Secretariat at a price of SFr. 20.-.

### OTIF Organs

#### Administrative Committee

98<sup>th</sup> session

*Berne, 7/8 November 2002*

The Administrative Committee held its 98<sup>th</sup> session in Berne and at the magnificent venue of the Schilthorn

respectively on 7 and 8 November 2002 under the chairmanship of Mr. Michel Aymeric (France).

With regard to the **EC's accession to COTIF**, the Committee decided to await adoption of the 2<sup>nd</sup> rail package and hence of the European Commission's negotiating mandate, and to discuss the negotiating mandate of OTIF's negotiating delegation at its next session (see Bulletin 2/2002, p. 19). In fact, although Denmark, which currently holds the chair of the EU Council, has made adoption of the entire 2<sup>nd</sup> rail package in December 2002 its first priority, discussions on this package could be prolonged. In addition, work on this issue has progressed more rapidly within OTIF than within the EC. The Committee therefore considered that it would be premature to discuss the OTIF negotiating delegation's mandate at this session. The Committee also made no definitive statement on changing OTIF's negotiating delegation – Italy had expressed interest in forming part of the delegation.

On **personnel** matters, the Committee noted the Director General's explanations based on the August 2002 version of the personnel policy project. However, it considered that it was unable to approve such a document at the 98<sup>th</sup> session and asked the Director General to clarify this matter and enlarge upon it for 2003 (see Bulletin 2/2002, p. 20).

In the **financial area**, the Committee noted OTIF's financial situation and the current situation with regard to investments. It approved the 2003 budget as proposed

by the Central Office. In order to cover the overspend of SFr. 93,972.-, the provisional rate per kilometre was set at SFr. 6.50. The possible balance of SFr. 49,000.- would be debited from the reserve fund. In addition, the Committee mandated the Central Office to prepare a document for the 99<sup>th</sup> session showing a comparison between the contributions to be paid under the present funding system and those to be paid under the COTIF 1999 funding system.

Lastly, at the invitation of Slovakia, the Committee decided to hold its 99<sup>th</sup> session on 22 and 23 May 2003 in Bratislava, and to hold its 100<sup>th</sup> session on 6 and 7 November 2003 in Berne.

(Translation)

### **RID Committee of Experts**

39<sup>th</sup> session

*Berne, 18-21 November 2002*

see "Dangerous Goods".

## **Dangerous Goods**

### **UIC “Carriage of Dangerous Goods” Group of Experts**

*Berne, 30/31 October 2002*

The Group of Experts received information about international meetings concerning the transport of dangerous goods as follows:

- UN Sub-Committee of Experts in Geneva (1-10.7.2002)
- RID/ADR Joint Meeting in Geneva (9-12.9.2002)
- RID Committee of Experts Working Group on tank and vehicle technology in Bonn (5/6.9.2002).

The meeting examined and took a position on the topics and proposals submitted to the 39<sup>th</sup> session of the RID Committee of Experts (Berne, 18-21.11.2002) – see report of the session in this Bulletin.

(Translation)

### **Working Party on the Transport of Dangerous Goods (WP.15, UN/ECE)**

*Geneva, 4-8 November 2002*

25 ADR States and 12 governmental and non-governmental organizations took part in this 73<sup>rd</sup> session with Mr. Franco (Portugal) as Chairman.

#### **Special agreements**

The Working Party agreed that with regard to updating special agreements based on the non restructured ADR (1999) to align them with the new structure (1.7.2001), they would be deemed to be accepted by the signatory States if no objection were raised. They would not be assigned a new identification number. The Working Party also suggested reviewing the relevant provision of ADR covering these agreements, given that they do not always meet the needs of technical and industrial developments alone.

#### **Carriage of limited quantities exempt from the conditions of carriage** (see Bulletin 2/2002, p. 25/26)

In general, the informal working group's proposals were not welcomed very positively. While some delegations supported the addition of a reference to the idea of the "end user", others were of the view that the transport criterion should be kept as a supplementary activity.

The Working Party agreed that the scope of the exemptions could be broadened, but the text would have to be worded in such a way that the permitted cases for exemption were defined very precisely, so that they could not be misinterpreted or abused.

The same applied to the question of transport involving deliveries between warehouses and retailers – the wording would have to be very precise.

A new proposal would be submitted on behalf of the correspondence group which had been set up to continue the work.

#### **Safety in road tunnels** (see Bulletin 2/2002, p. 26)

Some delegations supported Austria's point of view that introducing a Table into Chapter 1.9 showing, by group, the different categories of dangerous goods that tunnel managers could authorize based on parameters in connection with the construction of tunnels, traffic constraints, etc., would make it possible to achieve a

harmonized approach with respect to traffic restrictions in tunnels.

In contrast, other delegations were of the view that tunnel managers should decide restrictions on the basis of risk analyses specific to each tunnel and that OECD/PIARC's work on this issue, although based on detailed scientific work, was not sufficient to ensure satisfactory consideration of the specific features of each road tunnel. The harmonized approach proposed by Austria seemed to them to be inappropriate in as much as it could lead to unjustifiable restrictions for certain tunnels and, on the other hand, to an underestimation of the risks for others. Lastly, some delegations thought it undesirable to restrict the competent authorities' power of decision with regard to road traffic, which was currently ensured under Chapter 1.9 of ADR.

The principle of introducing a Table in Chapter 1.9 having been adopted, the representative of Austria said he would organize an informal group of experts to carry out this task and he asked delegations to send him written proposals. Taking previous discussions into account, the group's mandate would be to:

- a) Define more closely the substances and types of loading (packages, bulk, tanks) to be included in each group, taking into account the OECD/PIARC criteria;
- b) Introduce provisions explaining more clearly the meaning of the Table;
- c) Introduce these provisions with the aim of making it easier for drivers to apply them effectively;
- d) Possibly prescribe for the Working Party on Road Traffic Safety (WP.1) a system of road signs at tunnel entrances enabling identification of the groups permitted in the tunnel;
- e) Prescribe a system enabling checks to be made, e.g. by vehicle marking, documentation or other.

The Working Party noted that cooperation with WP.1 should allow the introduction of a consistent road sign system by means of amendments to the 1968 Convention on road signs and the European agreement supplementing it.

Based on a proposal from Spain, the Working Party also decided to introduce into the training programme for drivers instructions on conduct in tunnels.

In contrast, it did not adopt the proposal whereby the rules relating to traffic could require a quantitative risk analysis and envisage certain measures to be applied on a case-by-case basis (equal number of votes for and against).

**Security in the transport of dangerous goods** (see Bulletin 2/2002, p.26/27)

The representative of the United Kingdom reminded the Working Party that a general proposal relating to security would be discussed at the December 2002 session of the UN Sub-Committee of Experts on the Transport of Dangerous Goods, and he thought it would be preferable to await the results of that discussion before taking any decisions.

Several delegates also expressed the view that the security measures envisaged, aimed at amending the provisions relating to the driver training certificate (certificate format with photo, refresher examination in the new country of residence, national data files, etc.) were not suitable for ADR and should instead be taken in the context of national legislation and, if necessary, applied by virtue of Article 4(1) of ADR.

In addition, such provisions might not be compatible with European Union legislation concerning the free movement of persons and could even lead to problems in some countries in respect of the provisions in force concerning confidentiality and personal data.  
(Translation)

## **RID Committee of Experts**

39<sup>th</sup> session

*Berne, 18-21 November 2002*

21 Member States and 3 non-governmental international organizations took part in this session with Mr. H. Rein (Germany) as Chairman and Mr. W. Visser (Railion Benelux) as Vice-Chairman.

The following were the main items on the agenda and the following principal decisions were taken:

### **Special agreements**

Special agreements based on the non restructured 1999 edition of RID are to be updated by the initiating

countries in order to adapt them to the new law, i.e. the restructured RID of 2001. If no substantive amendments are made, States need not sign the agreements again and their period of validity will not change.

#### **Amendments to the 2003 edition for entry into force on 1.1.2004**

These were amendments adopted by the March 2002 Joint Meeting which were incorporated into the 2003 edition of ADR and which were not able to enter into force for RID on the same date because of the notification period. These amendments were approved.

In the context of harmonization with ADR with regard to recognizing the information contained in the documents for carriage by sea and air, the Committee of Experts noted that these provisions were not clear and that they were open to interpretation. If it were not (yet) possible in RID to allow recognition of the documents for carriage by sea and air as they were, it was decided to discuss the following two questions in the RID/ADR Joint Meeting:

- what is the position with regard to provisions specific to RID/ADR
- is it necessary to accept, for example, the applicable limited quantity provisions of the IMDG Code.

Only then would the Committee of Experts be in a position to take a view, also on the provisions specific to RID, particularly on using English only and on indicating the hazard identification number.

#### **Internal emergency plans for marshalling yards**

A reference in Chapter 1.10 of RID to UIC leaflet 201 relating to this subject was adopted (see also Bulletin 4/2001, report of the 38<sup>th</sup> session).

**Tank and vehicle technology** (on this topic, see especially Bulletins 4/2001, 2/2002 and 3/2002)

The Committee of Experts took important decisions on the following subjects for the 2005 and 2007 editions of RID respectively:

- Dome and dome cover
- Apparatus attached to the tanks of tank wagons
- Energy absorption devices/crash elements.

The Committee was also informed about and discussed the progress of work on the following subjects in the working group dealing with these matters:

- Buffers and buffer beams
- Protection against the overriding of buffers
- Sandwich cover for tank ends
- External/central solebars/self-supporting tank
- Improving the state of repair of tank wagons
- Devices attached high up on the shells of tank wagons
- Checklist
- Staff safety training
- Status of the telematics research project
- Research project on "telematics-based information system for vehicle drivers in intermodal transport".

Examination of these subjects will continue in the working group.

**Switzerland's measures for increasing safety in the carriage of dangerous goods by rail** (see also Bulletin 3/2002, pp. 52/53)

These measures were the subject of a lengthy debate which included the following subjects:

- Choice of route
- Transport of phosgene, chlorine and sulphur dioxide
- Derailment detectors.

Examination of these subjects will continue in

- a working group on Chapter 1.9 (choice of route)
- the Committee of Experts (phosgene, chlorine and sulphur dioxide)
- the working group on tank and vehicle technology (detectors). This was the most controversial subject because the action of these devices, once activated, cannot be reversed (e.g. a train stopping automatically in a tunnel).

#### **Safety in rail tunnels**

The Committee of Experts was informed about the setting up of the multidisciplinary working group in the UN/ECE along the lines of what had been done for road tunnels (see Bulletins 4/2001, 2/2002, p. 26 and p. 72 of this Bulletin) and about its objectives (mandate). The Committee of Experts would receive regular information about the working group's decisions and this issue

would be placed on the agenda of the following session(s).

**Security of rail transport operations with dangerous goods** (see Bulletin 3/2002, pp. 44 and 55/56 and 2/2002, pp. 26/27)

Following the discussion at the September Joint Meeting and the request addressed to him for a statement of his position, the representative of OCTI's legal service was of the view that the United Kingdom's proposals would certainly improve security, but that it was necessary to examine what the aim and function of RID were and what the competencies of the RID Committee of Experts were. The aim of RID was to regulate transport safety, i.e. the limitation of hazards arising from dangerous goods. However, transport safety measures could serve to reduce the risk of terrorist attacks. That is why they could be regulated in RID. If it was necessary first and foremost to anticipate terrorist threats, the competence of the RID Committee of Experts would have to be considered. The simplified procedure put in place to implement the decisions of the RID Committee of Experts is not applicable in international law because the decisions of this Committee of Experts also enter into force for those States that opposed them and raised objections. The RID Committee of Experts must examine very carefully which measures come within the provisions of the regulations. The current contents of RID comprise the main guidelines. RID is a compulsory legal requirement which links the Member States directly. In the case of recommendations, each Member State can itself decide what it will implement and to what extent. There is no doubt that in the area of data protection, States will not agree to accept just anything.

The representative of the United Kingdom explained that aim of these recommendations was to standardize security measures throughout Europe and the world. The United Kingdom was also able to apply them on its own. The Joint Meeting and WP.15, as well as the RID Committee of Experts, had to decide whether to take up these recommendations from the UN Model Regulations. A discussion on the view taken by OCTI's legal service would be premature, given that they had not yet been endorsed by the UN Committee of Experts. It had been held that preventing the dangers inherent in transport also included the prevention of sabotage.

The representative of OCTI's legal service considered international harmonization to be desirable. But the dangers of an action for annulment on a national level had also to be considered.

The representative of Austria thought OCTI's warning should be taken seriously. Because of the simplified procedure, which excludes the national Parliaments, political matters should be kept apart from the RID Committee of Experts. Institutions responsible for policing or protection in the private sector would have to be integrated in good time, otherwise having this issue dealt with by a transport body would be called into question.

The representative of the Netherlands was of the view that it was not only transport security in the face of terrorism that should be considered, but also protection of the dangerous goods. It was necessary to limit oneself to the objective of protection, thus avoiding specific provisions for which the cost/benefit relationship and implementation were not clear. Security should not be improved for the transport of dangerous goods alone, but for transport in general. The problems were less easy to resolve for land transport than for maritime transport.

The representative of UIC informed the meeting that the UIC group of experts had supported the position taken by OCTI's legal service, without having discussed individual measures.

In conclusion, the representative of the United Kingdom summed up that the RID Committee of Experts was made up of Government representatives. Each delegate had to get in touch with his national authorities in order that decisions could be taken within the RID Committee of Experts. It would be preferable to regulate the protection of dangerous goods against terrorist attacks here in order to avoid other authorities taking general measures which would be contrary to RID.

On the assumption that the UN Sub-Committee of Experts would take some decisions, the Chairman thought it important that delegates should play an active part in the UN Sub-Committee of Experts decision-making process so that a result could be obtained within the UN itself which could then be taken up without any problems in RID/ADR. If this were not done, there was a risk in the end of being confronted with provisions that varied greatly between one mode of transport and the other. Germany would prepare an informal document for the UN Sub-Committee of Experts which would reflect the status of the situation after discussions within the European Commission.

### **Explanatory material on the restructured version of RID**

This explanatory material presented by the representative of the Netherlands was well received.

Amongst other things, it contained in addition to a history of the restructuring work and an introduction to the different parts of RID:

- a systematic list for assigning conditions of carriage to groups of substances
- a Table comparing the non restructured 1999 version with the restructured version.

This material would also be submitted to the Joint Meeting and supplemented with what was needed to cover ADR. It would also be available from the OTIF website.

### **Matters pending, miscellaneous and new proposals**

The Committee of Experts adopted provisions proposed by UIP on harmonizing the procedure for the initial and periodic inspections of tank wagons, harmonizing requirements in respect of experts and on the mutual recognition of experts.

The Committee of Experts once again tackled the perennial question of the interpretation of the transitional measures for tank wagons built before 1 October 1978, the date the tank Appendix was created (see Bulletin 4/2001). This would affect the scrapping, or not, of hundreds or even thousands of tank wagons. Switzerland's new proposal was deferred to the next session and tasks were assigned as follows:

- OCTI would make available all the documents and reports on this subject;
- UIP would ask operators and competent authorities the approximate number of tank wagons that might be affected;
- Switzerland would provide a detailed technical analysis of the technical safety standard and proof that the wall thickness of these tanks was greater than that required at present.

### **In conclusion**

This session of the Committee of Experts undeniably represented a turning point in its history. For the first time, it adopted technical provisions for accident situations, while up to now, its threshold and competence were limited to normal conditions of

carriage. It also tackled matters that were both technical and political, such as safety in rail tunnels and the security of rail transport with dangerous goods (terrorism). This was, to say the least, an important development.  
(Translation)

### **Sub-Committee of Experts on the Transport of Dangerous Goods (UN/ECE)**

22<sup>nd</sup> session

*Geneva, 2-6 December 2002*

Experts and observers from more than 20 countries and as many international governmental and non-governmental organizations took part.

As is usual, contentious matters were handed over to working groups that met either in parallel with the session or outside the normal meeting hours.

It will be recalled that this session was to put the final touches to the 13<sup>th</sup> revised edition of the UN Model Regulations.

The main topics dealt with (see also Bulletin 3/2001, 4/2001 and especially 3/2002) and decisions taken were as follows:

#### **Additional provisions for the transport of gases**

The working group finished its work. At the moment, it is not planned to keep the working group.

#### **Transport of infectious substances in bulk**

The Sub-Committee finally adopted new provisions on the transport in bulk of animal carcasses following epizootic diseases in order to take account of the fact that many countries do not know what to do when faced with such disastrous circumstances and could therefore benefit from the experience of other countries.

#### **Transport of solids in portable tanks**

The Sub-Committee also finalized these texts. However, the question of providing two tank codes, either for transport in powdery or granular form or for transport in the molten state, was deferred to the next biennium.



### **Test for resistance to repeated shaking (vibration) for packagings, IBCs and large packagings**

There was no consensus and the matter was deferred to the next biennium.

### **Transport and security**

All the documents concerning the introduction of security provisions in the Model Regulations on the Transport of Dangerous Goods were studied by a drafting group before consideration by the Sub-Committee.

The expert from Belgium said that he was not against measures intended to enhance security during the transport of dangerous goods, but he felt that these documents should first have been considered by the Sub-Committee<sup>1</sup>, because there may be contradictions between safety provisions and security provisions. Furthermore, security was not usually placed under the responsibility of transport ministries, and he would first like to have had an overview of how security was dealt with in the various parts of the world and by organizations responsible for dangerous goods safety regulations.

There was no support for the position of the expert from Belgium, and the Sub-Committee adopted new provisions on the basis of the texts proposed by the drafting group, with some amendments. The full text of these new provisions is reproduced at the end of this report.

The representative of IMO said that a new chapter X1.2 of the International Convention on Safety of Life at Sea (SOLAS 1974, as amended) was expected to be adopted on 13 December 2002 and this chapter would cover security measures. It would be supplemented by a new International Ship and Port Facility Security Code (ISPS Code) which would contain mandatory and recommended provisions intended to strengthen security on board ships and in ship/port interface areas. Members of the Sub-Committee might wish to take the provisions of this new code into consideration when discussing security measures in the future. The security provisions in the UN Model Regulations dealing with multimodal aspects of the transport of dangerous goods would apply in addition to those developed by IMO.

The representative of ICAO said that her organization had planned to create a joint working group consisting

of the ICAO Dangerous Goods Panel and security personnel to see how to integrate the new security provisions of the UN Model Regulations.

Several European experts indicated that although these new provisions would probably be implemented in their countries, it was not certain that they could be implemented through the usual legal transport instruments (ADR, RID and ADN) since they might not all correspond to the legal scope of such instruments. They might have to be addressed under specific national legislation falling under the responsibility of ministries other than transport ministries.

### **Sequence of information in the transport document**

It was recalled that the present provisions, whereby consignors may choose between several sequences of information for filling in transport documents, were a compromise that had been reached after long and difficult negotiations, and that regulatory authorities and organizations had taken steps to implement this compromise solution effectively throughout the world.

Therefore the Sub-Committee expressed deep concern at the fact that irrespective of the international legal framework that would be in place as from 1 January 2003, a non-governmental organization as important as IATA, which only represented operators of a single mode of transport, had decided to impose one particular sequence of information and had even already included a note in the 2002 edition of the IATA Regulations to the effect that, as from 1 January 2005, the IATA Shipper's Declaration form would have to be filled in according to that sequence and therefore all consignors were now presented with a *fait accompli*.

The Sub-Committee expressed the hope that IATA would maintain the two alternative sequences in the next edition of their Regulations. The Secretariat was requested to convey the Sub-Committee's concerns to IATA.

Several delegations nevertheless recognized that a single sequence would have been preferable, but since industry needed some time to adapt their computer programmes to a new sequence and since a compromise solution had been found, it would not be appropriate to change the rules only two years after the adoption of that solution.

<sup>1</sup> Editor's note: neither had there been any discussion on the principle itself of including such provisions...

### Texts adopted by the Sub-Committee at its 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> sessions

The Sub-Committee reviewed and approved the summary list of draft amendments to the Model Regulations and the Manual of Tests and Criteria. Formerly, it was the job of the Committee of Experts to approve amendments, but since the reorganization of this Committee, it only had a formal role in adopting the resolutions of the two Sub-Committees to implement the adopted amendments and programme of work decided upon by the Sub-Committees for the next biennium<sup>2</sup>.

#### Programme of work

The programme comprises the following particular important points:

- Harmonization with the GHS (Globally Harmonized System of Classification and Labelling)
- Accident reporting procedure
- Standardization of emergency measures
- Guiding principles for the different parts/chapters of the Model Regulations
- Evaluation of the packaging provisions
- Carriage of goods packed in limited quantities.

#### Annex: TRANSPORT AND SECURITY

##### Texts adopted by the Sub-Committee and Committee of Experts respectively

**Part 1** Add the following new chapter 1.4:

#### "CHAPTER 1.4 SECURITY PROVISIONS

##### Introductory notes

**NOTE 1:** This Chapter provides requirements intended to address the security of dangerous goods in transport in all modes. Mode specific security provisions can be found in Chapter 7.2. National and modal authorities may apply additional security provisions which should be considered when offering or transporting dangerous goods.

**NOTE 2:** For the purposes of this Chapter security means measures or precautions to be taken to minimise theft or misuse of dangerous goods that may endanger persons or property.

#### 1.4.1 General provisions

1.4.1.1 All persons engaged in the transport of dangerous goods shall consider security requirements for the transport of dangerous goods commensurate with their responsibilities.

1.4.1.2 Consignors shall only offer dangerous goods to carriers that have been appropriately identified.

1.4.1.3 Transit sites, such as airside warehouses, marshalling yards and other temporary storage areas shall be properly secured, well lit and, where possible, not be accessible to the general public.

#### 1.4.2 Security training

1.4.2.1 The training specified for individuals in 1.3.2 (a), (b) or (c) shall also include elements of security awareness.

1.4.2.2 Security awareness training shall address the nature of security risks, recognising security risks, methods to address and reduce such risks and actions to be taken in the event of a security breach. It shall include awareness of security plans (if appropriate) commensurate with the responsibilities of individuals and their part in implementing security plans.

1.4.2.3 Such training shall be provided or verified upon employment in a position involving dangerous goods transport and shall be periodically supplemented with retraining.

1.4.2.4 Records of all security training undertaken shall be kept by the employer and made available to the employee if requested.

#### 1.4.3 Provisions for high consequence dangerous goods

1.4.3.1 In implementing national security provisions competent authorities shall

<sup>2</sup> Editor's note: for this reason, we will not be reporting on the session of the Committee of Experts held on 11 and 12.12.2002.

consider establishing a programme for identifying consignors or carriers engaged in the transport of high consequence dangerous goods for the purpose of communicating security related information. An indicative list of high consequence dangerous goods is provided in Table 1.4.1.

- (f) procedures for the evaluation and testing of security plans and procedures for periodic review and update of the plans;
- (g) measures to ensure the security of transport information contained in the plan;
- (h) measures to ensure the security of the transport information. Distribution of transport documentation shall be limited as far as possible. Such measures shall not preclude providing transport documentation required by Chapter 5.4 of these Regulations.

**1.4.3.2 Security plans**

1.4.3.2.1 Carriers, consignors and others (including infrastructure managers) engaged in the transport of high consequence dangerous goods (see Table 1) shall adopt, implement and comply with a security plan that addresses at least the elements specified in 1.4.3.2.2.

1.4.3.2.2 The security plan shall comprise at least the following elements:

- (a) specific allocation of responsibilities for security to competent and qualified persons with appropriate authority to carry out their responsibilities;
- (b) records of dangerous goods or types of dangerous goods transported;
- (c) review of current operations and assessment of vulnerabilities, including inter-modal transfer, temporary transit storage, handling and distribution as appropriate;
- (d) clear statements of measures, including training, policies (including response to higher threat conditions, new employee/employment verification etc.), operating practices (e.g. choice/use of routes where known, access to dangerous goods in temporary storage, proximity to vulnerable infrastructure etc.), equipment and resources that are to be used to reduce security risks;
- (e) effective and up to date procedures for reporting and dealing with security threats, breaches of security or security incidents;

**NOTE:** Carriers, consignors and consignees should co-operate with each other and with appropriate authorities to exchange threat information, apply appropriate security measures and respond to security incidents.

**Table 1.4.1: INDICATIVE LIST OF HIGH CONSEQUENCE DANGEROUS GOODS**

High consequence dangerous goods are those which have the potential for misuse in a terrorist incident and which may, as a result, produce serious consequences such as mass casualties or mass destruction. The following is an indicative list of high consequence dangerous goods:

|                          |  |
|--------------------------|--|
| Class 1, Division 1.1    | explosives   |
| Class 1, Division 1.2    | explosives   |
| Class 1, Division 1.3    | compatibility group C explosives   |
| Class 1, Division 1.5    | explosives   |
| Division 2.1             | flammable gases in bulk  |
| Division 2.3             | toxic gases (excluding aerosols)   |
| Class 3                  | flammable liquids in bulk of packing groups I and II                     |
| Class 3 and Division 4.1 | desensitised explosives  |
| Division 4.2             | goods of packing group I in bulk   |
| Division 4.3             | goods of packing group I in bulk   |
| Division 5.1             | oxidizing liquids in bulk of packing group I                             |
| Division 5.1             | perchlorates, ammonium nitrate and ammonium nitrate fertilisers, in bulk |

|              |  |
|--------------|--|
| Division 6.1 | toxic substances of Packing Group I  |
| Division 6.2 | infectious substances of Category A  |
| Class 7      | radioactive material in quantities greater than 3000 A <sub>1</sub> (in special form) or 3000 A <sub>2</sub> in Type B and Type C packages |
| Class 8      | corrosive substances of packing group I in bulk  |

**NOTE 1:** For the purposes of this table 'in bulk' means transported in quantities greater than 3000 kg or 3000 l in portable tanks or bulk containers.

**NOTE 2:** For purposes of non-proliferation of nuclear material the Convention on Physical Protection of Nuclear Material applies to international transport supported by IAEA INFCIRC/225(Rev.4)."

**PART 7** Add a new section 7.2.4 as follows:

**"7.2.4 Security provisions for transport by road, rail and inland waterway**

**NOTE:** These provisions are in addition to those applicable to all modes of transport as provided in Chapter 1.4.

7.2.4.1 Each crew member of road vehicles, trains and inland waterway craft transporting dangerous goods shall carry with them means of identification, which includes their photograph, during transport.

7.2.4.2 When appropriate and already fitted, the use of transport telemetry or other tracking methods or devices shall be used to monitor the movement of high consequence dangerous goods (see Table 1.4.1 in Chapter 1.4.).

7.2.4.3 The carrier shall ensure the application to vehicles and inland waterway craft transporting high consequence dangerous goods (see Table 1.4.1 in Chapter 1.4) of devices, equipment or arrangements to prevent the theft of the vehicle or inland waterway craft or its cargo and shall ensure that these are operational and effective at all times.

7.2.4.4 Safety inspections on transport units shall cover appropriate security measures."

**CONSEQUENTIAL AMENDMENTS (Training)**

1.3.1 Add the following sentence at the end: "Training requirements specific to security of dangerous goods in Chapter 1.4 shall also be addressed."

1.3.3 Add a new 1.3.3 as follows:

"Records of all safety training undertaken shall be kept by the employer and made available to the employee if required."

Renumber existing 1.3.3 as 1.3.4.  
(Translation)

**Other Activities**

**Training course**

*Pärnu, 14-18 October 2002*

Against the background of Estonia's preparations for accession to COTIF, the Secretariat of OTIF, together with the Estonian Railway Administration, organized a training course on "COTIF Uniform Railway Transport Law System and Related Topics", which was held from 14 to 18. October in Pärnu (Estonia). Among the 29 participants, 22 of whom were from Estonia, were also some from Latvia, Lithuania and the Ukraine. The course was held in English, with simultaneous interpretation into Russian. Thanks to the excellent organisational preparations undertaken by the Estonian hosts, the course was held under the best conditions and in a pleasant atmosphere.

Members of the OTIF Secretariat introduced both the COTIF currently in force and the Vilnius Protocol version. In accordance with needs and wishes expressed by Estonian colleagues, other subjects covered by guest speakers from the Federal Ministry of Finance (Germany) and from the Railway Company Ltd. (Slovakia) included the simplified common/community customs transit procedure under which the CIM consignment note is used as a customs document. Guest speakers from the European Commission (General Directorate Energy and Transport), the International Rail Transport Committee (CIT), German railways Ltd.

and the International Union of Railways (UIC) also dealt with further topics linked directly to COTIF, such as European Community Directives on interoperability and safety, rail corridors, the provisions, general conditions and model contracts drafted by CIT, international passenger transport tariffs and the RIV and RIC Agreements.

The good results in the test held at the end of the course and participants' comments in a course evaluation questionnaire handed out at the end demonstrate that the course was successful in providing participants with the most important facts from the set of topics selected, so the objective of the course was achieved.

(Translation)

## Co-operation with International Organizations and Associations

### European Communities (EC)

#### Second Annual European Conference on Energy and Transport

*Barcelona, 11-13 November 2002*

The Director General of the Central Office had been invited to take part in this conference, which is conceived as a regularly organized event by the European Commission's DG TREN, and is therefore actively run by the Commission and its leading exponents. The focus of this second event was the question of infrastructure, especially issues concerning networks, bottlenecks, funding and the particular problems surrounding interoperability. The conference was combined with an exhibition at which mainly research and development projects promoted or funded by the Commission were represented.

Owing to the programme that was chosen and thanks to the wide interest it generated, there was much opportunity for obtaining information and making contacts. The determining factor for taking part in the conference had also been the prospect of having the opportunity of discussing with important partners in DG TREN problems that still need to be dealt with. Expectations in this respect were fully met.

Interest of course centred on the conference, which covered the transport and energy sector, in line with DG TREN's range of activities. On the one hand, DG TREN

wanted to provide information about its outlook and programme, but it also wanted to hear opinions, obtain suggestions and have the chance to verify matters. In this respect, there are unquestionably common features and cross-cutting relations between the two sectors. These can be useful. On the other hand, specific interests predominated, which for most participants obviously meant that in the short time available, they had to concentrate on their customary sector.

The focus in the transport sector was clearly on problems surrounding the railways – although representatives of the other modes were of course present and endeavoured to air their concerns. But the railways are after all the major problem child (or the major question mark) in relation to EU transport policy, as defined particularly in the Commission's new white paper. The problems surrounding the railways were drastically expressed at the conference, albeit the focus was, not surprisingly, mainly on freight transport.

As a brief summary, the following should be noted:

- The main problem for the railways in freight transport is the quality of what they offer, which is collectively described as insufficient in terms of speed, reliability and flexibility with regard to the wishes of customers. The agreed view also exists that improvements are needed quickly to avoid the railways losing more ground that can then hardly be regained.
- In accordance with the subject of the conference, the issues with regard to measures that needed to be discussed in particular were; increasing capacity, the removal of weak points in the infrastructure, interoperability and the funding of construction projects and improving interoperability. This meant that substantial aspects of the railway quality problem were not dealt with at the conference, even though it cannot be denied that the problems surrounding infrastructure and interoperability constitute a key issue with further repercussions, particularly when it is remembered that specific, promising developments in corridors must be sought which will enable forces to be combined and priorities to be set.
- On the subject of increasing capacity, it should first be noted that a decidedly European problem is involved, i.e. the fact that the European rail system will in the future have also to a large extent to handle mixed traffic (while not excluding the formation of a certain division,

between lines purely for freight and purely for passengers). Many of the key projects, which also from the European Commission's point of view must take priority, are not purely national concerns, which means there are particular difficulties in respect of planning, procedures related to implementation and particularly funding. It became clear that the participating states must make a fundamental contribution, not just in terms of state funding resources, but also on the basis of international treaty rules, in terms of uniform procedures guaranteeing the requisite planning and procedural security. What is quite clear is that in the absence of these conditions, funding in conjunction with private capital (PPP) will remain an illusion.

- On the question of funding improved interoperability, it has come to be recognized that objectives and corresponding legal guidelines are one and the same. Ultimately though, the deciding issues will be that of the strategy of migration and that of securing suitable funding for it. It is also evident here that the participating States must play a central role with a transfrontier, co-ordinated and reliable policy. Otherwise, the signals necessary initially to permit decisive steps in respect of migration will be absent. A test will be the control/command area, with the achievement of ETCS. The current situation in Switzerland makes clear how great a risk there is that in the end, when it comes to decisive investment projects, interoperability will not get top priority.
- In relation to investments and how they are funded, it can be seen finally that the problem of infrastructure charging has not yet been resolved. Apart from the – contentious – issue of the cross-comparison and equal treatment of the transport modes, there is agreement that competitive, internationally harmonized charges for using infrastructure are a central precondition for improving its situation.

What conclusions can be drawn with regard to COTIF's contribution and the role of OTIF?

- Once again, it should be emphasized how important it is to take into account COTIF 1999 in its entire scope as an instrument that follows the process of railways reform in Europe.
- The developments in Community law and the EU's accession to COTIF 1999 mean that COTIF is also to be seen particularly as an instrument that

goes beyond the current scope and especially beyond the geographical area of the (expanded) EU.

- Freight transport stands at the centre of the problems surrounding the railways, and also therefore at the centre of the question of COTIF/OTIF's contribution. And here, it can hardly be disputed that a clear division – even though as regards details, various solutions are conceivable – between infrastructure and transport corresponds to the logic of the reform of the railways being sought and thus also to the process of development. This will have to be taken into account in implementing COTIF 1999, although it will obviously be worth giving particular attention to selected pan-European corridors, clearly not just within the EU area, but also with a view to the OSZhD area, in order to set priorities and thus to throw light on the implementation and problems concerning the application of COTIF 1999 as specifically and as quickly as possible. It is also clear that in principle, it is essential to consider matters from an intermodal point of view.
- All the issues surrounding border crossing pose a particular problem, especially at the margins of the EU and in the EU candidate States, where in many areas, different conditions start to apply (working conditions of those involved, operational provisions, general differences with regard to safety, reliability, etc.). The question still remains open of how, with what aim and with what role the Committee of Experts for matters concerning border crossing, to be set up under COTIF 1999, should be defined and put together.
- In this respect, the intention of the Central Office to get actively involved in the context of two specific projects is endorsed.

(Translation)

### **Hearing concerning international rail passengers' rights and obligations**

*Brussels, 15 November 2002*

The European Commission is pursuing two aims in the field of transfrontier rail passenger transport: firstly, to open up the market step by step with the introduction of controlled competition, and secondly, to reinforce the

rights of passengers<sup>1</sup>. Against this background, Directorate General Energy and Transport (DG TREN) held a hearing in October 2001 on the subject of rail passenger transport and commissioned a study in order to obtain a comprehensive overview of the difficulties passengers face in transfrontier rail transport<sup>2</sup>.

Based on this, and taking into account their own findings in the field of air transport in respect of passenger protection, which had already been explored at an earlier stage, DG TREN drew up a consultation paper in which the many aspects of international rail passenger transport are examined from the perspective of the passengers' status as consumers<sup>3</sup>. With a view to the Commission's intention to propose early in 2003 a Regulation on passenger rights and obligations<sup>4</sup>, the consultation paper listed 52 questions and 30 measures under consideration. Comments were invited from organisations affected and from rail sector associations.

A hearing concerning international rail passengers' rights and obligations was held in Brussels on 15 November 2002. Twenty seven organisations and associations attended the hearing: 5 European and 13 national consumer protection organisations, 5 railway associations representing rail transport undertakings, infrastructure operators and rail travel operators, along with three further organisations involved with this subject, including OTIF.

Consumer organisations welcomed the European Commission's initiative and set out their concerns. The following were among the subjects discussed: consultation of passengers in the event of timetable changes, better information to be offered by railway undertakings, transparent prices, accessibility to stations and trains for people with reduced mobility, security, cleanliness, claims for reimbursement, punctuality,

compensation for delays and other faults in quality, handling of complaints.

OTIF pointed out that the need particularly to protect the rights of passengers as consumers had played an important role when drafting the new version of the CIV Uniform Rules (CIV UR) as part of the revision of COTIF, which was concluded with the adoption of the Vilnius Protocol. However, the main issue was to come up with a balanced solution, as the statutory model for the contract of carriage. Although the CIV UR are mandatory, the carrier, in its commercial interest, has sufficient leeway to accommodate the passenger as a customer. On the one hand, the Vilnius Protocol version of the CIV UR allows the parties to the contract more contractual freedom, and on the other, it is made very clear in Article 5 that carriers may assume greater liability and more burdensome obligations in respect of passengers.

The representatives of the railway associations introduced their draft "Charter on Rail Passenger Services", which had been prepared by a working group of the International Union of Railways (UIC), the International Rail Transport Committee (CIT) and the Community of European Railways (CER). The Charter was to be taken as a voluntary commitment on the part of railway undertakings. The railway associations declared their resolve to promote passenger rights and obligations and hence to improve the quality of the service provided. They signalled their readiness to develop the Charter further, working together with consumer protection organisations.

It was apparent from most of the statements made by the consumer associations that they would prefer an EC Regulation to a voluntary commitment on the part of railway undertakings. It also emerged that suitable measures should be taken urgently to provide passengers with better information about their existing rights (and obligations). For example, the most important rights and obligations pertaining to passengers – including those covered in the CIV UR – could be brought together in a comprehensible form as a "Charter on Rail Passenger Services" and displayed in a prominent position in all the bigger stations.

The assessment of the outcome of the hearing and the written comments<sup>5</sup> on the consultation paper, for which the deadline was 24 November 2002, should show which of the concerns of passengers will require regulation and which of them could be taken into account in an agreement between the associations

<sup>1</sup> White Paper "European transport policy for 2010: time to decide", COM(2002) 370 of 12.9.2001, Part 1, Section I(a) and Communication from the Commission to the Council and the European Parliament, COM(2002) 18 final of 23.1.2002 "Towards an integrated European railway area", Part 2, para. 2.2.

<sup>2</sup> The report of the hearing and the final report of the study on "Developing EU (International) Rail Passenger Transport: Assessment of the actual and potential market for international rail passenger services", OGM, Brussels, are published on the EC's website at [www.europa.eu.int/comm/transport/rail/passengers/pass\\_en.htm#initiatives](http://www.europa.eu.int/comm/transport/rail/passengers/pass_en.htm#initiatives) and [www.europa.eu.int/comm/transport/rail/library/ogm-report.pdf](http://www.europa.eu.int/comm/transport/rail/library/ogm-report.pdf)

<sup>3</sup> Also published on the EC's website. [www.europa.eu.int/comm/transport/rail/passengers/pass\\_en.htm#initiatives](http://www.europa.eu.int/comm/transport/rail/passengers/pass_en.htm#initiatives)

<sup>4</sup> Communication COM(2002) 18 final of 23.1.2002, Part 2, para. 2.2.2.

<sup>5</sup> The comments will be published on the EC's website

representing each side – railway undertakings and passengers – in the form of a "Charter on Rail Passenger Services".  
(Translation)

### **United Nations Economic Commission for Europe (UN/ECE)**

#### **Convention on Civil Liability for Damage caused during Carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels (CRTD)**

##### **Ad Hoc Meetings of Experts**

*Geneva, 10-12 June 2002 and 4-6 November 2002*

At its 64th meeting (Geneva, 18-21.2.2002), at the request of the Working Party on the Transport of Dangerous Goods (WP.15), the Inland Transport Committee (ITC) of the United Nations Economic Commission for Europe (UN/ECE) mandated a working group including experts from all the sectors concerned to look at how obstacles preventing the entry into force of the Convention on Civil Liability for Damage caused during Carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels (CRTD) could be removed (see Bulletin 4/2001 and 1/2002, p. 9). The result, and proposals for amending the current provisions of CRTD, were to be reported to ITC in 2003 so that if necessary, a new Convention could be adopted in 2004.

The first session of the working group, chaired by the Netherlands, was held from 10 to 12 June 2002 and the second session was held from 4 to 6 November 2002 in Geneva. Both times, the meeting expressed regret at the low attendance by Governments of the Member States (first session: 8 Member States, second session: 5 Member States).

Last year, in order to find out what was preventing States from acceding to CRTD, the UN/ECE Secretariat carried out a survey among Member States. The results of the survey were made available to the experts and evaluated.

Following a discussion of principle, the scope of CRTD, i.e. application to all the land modes, and its basic principle, i.e. objective liability and its being "channelled" towards the carrier, were retained by the working group for the time being, despite objections from associations representing the land modes, particularly road and rail. The representative of OTIF pointed out that a new

definition of the term "carrier" would be required as a result of the change of situation in the rail sector – separation of transport service provision from infrastructure operation – if the basic principle were to be maintained. A new proposal on this was expected from OTIF, in agreement with the International Rail Transport Committee (CIT), and this was to be the subject of discussions at the next session.

In Member States' replies to the survey, the obstacles to accession to CRTD mentioned most often were the size of the maximum amounts for liability, and obligatory insurance. Accordingly, the working group looked at the possibility of reducing the maximum amounts for liability and of relaxing the insurance obligation. The meeting examined a proposal from the Chairman, according to which a different maximum amount should be prescribed for each mode. For the time being, it was not yet possible to adopt specific amounts. As the main aim of the Convention is the protection of injured persons, it was established that the maximum amounts for liability cannot be reduced on a whim.

In dealing with the question of the insurability of damage arising from the carriage of dangerous goods, the outcome of the insurance industry hearing at the Central Commission for Navigation on the Rhine (Strasbourg, 18.12.2001) on the draft of a European Convention on Liability for Damage in connection with the Carriage of Hazardous and Noxious Substances by Inland Waterways (CRDNI, see Bulletin 2/2001) proved to be of help.

In discussing whether a transitional period should be prescribed, during which some or all of the modes could be relieved of the insurance obligation, the argument that this obligation would not be economically supportable for smaller undertakings, particularly in the road transport and inland navigation sectors, gave rise to concern from the perspective of EC law in the event that such relief were not granted to all modes. This matter could not be conclusively resolved either.

The next ad hoc meeting of experts should be held from 19 to 21 May 2003. In order for the work to continue successfully, a larger number of participants would be desirable. Governments will be made aware of this problem during reporting at the next meeting of the Inland Transport Committee.

(Translation)



## International Institute for the Unification of Private Law (UNIDROIT)

### Draft Rail Protocol to the Convention on International Interests in Mobile Equipment

Drafting Committee

*Rome, 22-25 October 2002*

The Drafting Committee, in which the OTIF Secretariat was also represented, met again under the chairmanship of Prof. Kreuzer (Germany) to undertake the amendments resulting from discussions at the second joint session of the Committee of Governmental Experts (Rome, 17-19.6.2002).

Issues in connection with public service rolling stock and the question of rights in the event of insolvency were central subjects for discussion.

The Drafting Committee also revised a text proposed by the Rail Working Group concerning the protection of quiet possession for a short-term lessee and the question of the accountability of the supervisory authority to States that are not Members of OTIF.

The text prepared by the Drafting Committee will form the basis of discussions at the third joint session of Governmental Experts to be held from 5 to 13 May 2003 in Berne.  
(Translation)

## Case Law

### Cour d'Appel de Versailles

#### Ruling of 14 May 2002

**With regard to limitation, the provisions of CIM UR apply to international rail freight transport; national law can only apply in respect of those matters not regulated in these particular provisions<sup>1</sup>.**

Cf. CIM Articles 1 and 58

<sup>1</sup> See Bulletin 4/1998, Cour de Cassation de France, ruling of 9.12.1997

## Facts and procedure

From 1987, Socodis Conditionnement Ltd., which markets cat litter, commissioned Transfesa (a limited liability company) to carry by rail from Spain to France a significant tonnage of clay for use in manufacturing the litter.

On 14 December 1991, Transfesa informed Socodis Conditionnement Ltd. that as they would need to overhaul their wagons and that owing to other transport commitments, they could not fulfil the latter's required loading schedule for one or two months.

In a letter dated 28 January 1992, Transfesa informed Socodis Conditionnement Ltd. that the wagons were available again and requested the latter to settle the invoices dated 27 November 1991, which were for a total amount of FF. 488,785.40 (74,514.85 €).

Citing Transfesa failure to carry out its contractual obligations, Socodis Conditionnement Ltd. summoned the former before the Paris Commercial Court to pay compensation for its claimed damages and to appoint an expert to determine the damages.

Transfesa submitted a counter-claim for payment of its invoices and Socodis Finance ("Socofi") volunteered to intervene in the proceedings.

In a ruling given on 22 June 1993, this Court's view being that it did not consider Transfesa to be liable, all the claims submitted by Socodis Conditionnement Ltd. were dismissed and the company was ordered to pay Transfesa FF. 586,940 (89,478.43 €) and compensation of FF. 8,000 (1,219.59 €) in accordance with Article 700 of the new Code of civil procedure.

With regard to the appeal lodged by Socodis Conditionnement and Socofi, the Paris Court of Appeal established in its ruling of 14 June 1995 the inappropriate interruption of the transport services provided by Transfesa, but noting that there was no proof that damage had been caused as a direct result of the fault established, it dismissed the applicants' claims and quashed the ruling concerning the unpaid invoices, thereby rejecting Transfesa's claim in this respect, because of the limitation invoked by the Socodis companies on the basis of Article 108 of the Commercial Code, now Article L 133-6.

With regard to Transfesa's appeal, the Supreme Court of Appeal declared in its ruling of 9 December 1997, corrected on 23 June 1998, that by giving its ruling admitting the defence of limitation without having checked whether the provisions of the Uniform Rules concerning the Contract of International Carriage of Goods by Rail, known as the CIM UR, of the Berne Convention of 9 May 1980, particularly the provisions covering limitation of liability, should have been applied – since this was a case involving international rail freight transport - its decision had no legal basis, upon which the Supreme Court of Appeal overturned the ruling of 14 June 1995, but only in as much as it rejected Transfesa's claim and referred the matter and the parties to the Court of Appeal at Versailles.

The Socodis companies laid their appeal before this Court.

The parties made their applications and the case was heard on 14 March 2000.

In its ruling of 20 June 2000, the Court declared the claims of Socodis Conditionnement Ltd. and Socodis Finance in respect of compensation and expenses for an expert to be inadmissible, and before pronouncing on the claim for payment of Transfesa's invoices, ordered the inquiry to be reopened and requested Socodis Conditionnement Ltd., the consignee of the goods, and, if necessary, any interested party, to produce the consignment note(s) for the transport operations which were the subject of the invoices at issue and the list of lines set out in Articles 3 and 10 of the Berne Convention of 9 May 1980, known as COTIF, covered by Article 1 of the CIM UR, and invited the parties to give their views on the conditions of the transport operations at issue in order to determine whether these operations fell within the scope of the above-mentioned Convention within the meaning of Article 1 § 1 of the CIM UR, or whether they might be subject to one of the exceptions defined in Article 2, and to provide the necessary information for it to rule, if necessary, on when the period of limitation of liability began in accordance with Article 58 § 2 (c) (ii) of the CIM UR, and the Court reserved all other claims and costs.

The Socodis companies maintained that CIM was not applicable in this case as it had not been shown that the goods were being carried under a direct consignment note and were being carried on the lines entered in the Convention, and emphasized that even if this had been the case, this would have no bearing with regard to the terms of Article 58 § 1 which provided for a period of limitation of one year, except in the cases set out in (a)

and (e) which, in their view, were not consistent with Transfesa's counter-claim.

They were of the view that in the absence of an act of interruption within the meaning of Article 2244 of the Civil Code and the absence of any fraud on their part which would mean the period of limitation could not be opposed, this counter-claim was barred on the basis of Article L 133-6 of the Commercial Code.

The Socodis companies asked that the Court consider the counter-claim inadmissible on the grounds of limitation and asked the court to dismiss it and requested compensation of FF. 30,000 (4,573.47 €) in accordance with Article 700 of the new Code of civil procedure.

Transfesa asked the Court to confirm that the departure and arrival stations do in fact appear on the list of lines open to CIM traffic, that application of the Berne Convention in this case was not seriously called into question and that the one-year period of limitation had not expired.

Transfesa asked the Court to order in solidum the Socodis companies to pay the sum of FF. 589,940 (89,478.49 €) in addition to interest at the legal rate to run from the seizure by court order of 14 May 1992 corresponding to the transport services carried out between October and December 1991, two million French Francs in damages (304,898.03 €) and compensation of FF. 100,000 (15,244.90 €) in accordance with Article 700 of the new Code of civil procedure.

### **Grounds for the ruling**

Whereas on the basis of the provisions of Article 954 sub-paragraph 2 of the new Code of civil procedure in the version issued under Order No. 98-1231 of 28 December 1998, the parties must again submit in their final testimonies the claims and evidence presented or invoked in their previous applications, in the absence of which they shall be deemed to have been dispensed with and the Court only rules on the latest applications submitted;

Whereas all successive applications which, before the inquiry closes, determine the object of the matter in dispute or raise facts likely to conclude the case, are subject to the provisions of the Order referred to above;

Whereas this is the case for the parties' last testimonies submitted after the previous ruling of 20 June 2000;

Whereas Transfesa, having submitted its final claims on 8 January 2001, concentrating exclusively on the Berne Convention, has abandoned all the other grounds submitted formerly on 11 December 1998 in support of its claims;

Whereas under the terms of Article 1 § 1 of the Uniform Rules concerning the Contract for International Carriage of Goods by Rail, known as the CIM UR, of the Berne Convention of 9 May 1980 concerning International Carriage by Rail, known as COTIF, the Rules, with the exceptions provided for in Article 2, apply to all goods consignments handed over for carriage with a direct consignment note prepared for a journey over the territories of at least two States and including only lines entered in the list in Articles 3 and 10 of the Convention;

Whereas the invoices Transfesa is seeking to have paid concern rail transport services carried out during the months of October, November and December 1991 between Spain and France, signatory states to the Berne Convention, from the stations of departure of Aranjuez and Meco to the destination station of Villefranche sur Saône as testified by the direct consignment notes produced by the respondent, which stations all appear on the list referred to above, while none of these consignments is liable to constitute one of the exceptions referred to in Article 2 of the CIM UR, which therefore apply to the matter at issue;

Whereas in accordance with Article 58 § 1 of the said CIM UR the claim arising from the contract of carriage is limited to one year, except in the cases set out in (a) and (e), which do not cover Transfesa's counter-claim;

Whereas § 2 (c) (ii) stipulates that the limitation for the claim for payment of the carriage charges shall, if payment has not been made, run from the day when the goods were accepted for carriage if payment is due from the consignor, or from the day when the consignee took possession of the consignment note if payment is due from him;

Whereas in spite of the injunction imposed on the parties in this respect at the time the ruling of 20 June 2000 was pronounced, to collect information to determine the start of this one-year period of limitation in accordance with Article 58 § 2 (c) (ii) of the CIM UR, the parties did not comply with it;

Whereas the Court is therefore obliged to make reference in this respect to the only forms of evidence it has at its disposal;

Whereas the rail transport services in question were carried out during the months of October to December 1991 and even if the most favourable date for the respondent is taken, i.e. the date the invoices were issued between 27 November 1991 and 27 February 1992 as the end of the previous delivery of goods to the consignee, Transfesa's counter-claim for payment only having been formulated for the first time in the applications of 30 March 1993, this counter-claim is subject to limitation;

Whereas it follows from this that this claim will be declared inadmissible;

Whereas Transfesa's claim for damages, the basis of which it has not even explained, will be dismissed;

Whereas equity demands that Socodis Conditionnement be awarded compensation of 3,500 € in accordance with Article 700 of the new Code of civil procedure.

#### **On these grounds**

Ruling publicly, in the presence of the parties and in the last instance after quashing the ruling of the Paris Court of Appeal of 14 June 1995, by means of the ruling of 9 December 1997, corrected on 23 June 1998, of the Supreme Court of Appeal,

Considering this Court's ruling of 20 June 2000,

This Court quashes the remaining parts of the ruling of 22 June 1993 of the Paris Commercial Court and, coming to a new decision,

Declares inadmissible the claim entered by Transfesa for the payment of invoices, as the claim is subject to limitation in accordance with Article 58 § 2 (c) (ii) of the CIM UR,

Dismisses its claim for damages,

Orders it to pay Socodis Conditionnement Ltd. compensation of 3,500 € in accordance with Article 700 of the new Code of civil procedure,

Orders it to pay the appeal costs which will be recovered by Debray-Chemin SCP, solicitors, in accordance with Article 699 of the new Code of civil procedure.

(Direct communication)

(Translation)

## Miscellaneous Information

### International Liaison Group of Government Railway Inspectors (ILGGRI)

#### Joint RID Committee of Experts – ILGGRI seminar

*Berne, 22 November 2002*

#### Meeting report, summary

##### Introduction

The idea for the seminar goes back to an ILGGRI meeting held at the end of January 2002 in Amsterdam. At that meeting, the representative of Switzerland presented for the first time the Swiss approach to an overall, quantified assessment of risks and measures for the carriage of dangerous goods on the rail network, which has since become more widely known. In Amsterdam, there was no time left for a discussion. But in view of the importance of this subject, it could not just be postponed until another meeting where there would probably not be enough time again, but was to be the subject of a special seminar organized by the Central Office for International Carriage by Rail. Subsequently, the conviction soon developed that if a seminar were held, then the RID Committee of Experts should also be involved.

On 28 August 2002, the RID Committee of Experts and ILGGRI were sent an invitation to attend a joint seminar, in the belief that the interests of each group overlap, the RID Committee of Experts being an organ of OTIF with decision-making competence in the field of uniform provisions for the carriage of dangerous goods, and ILGGRI (International Liaison Group of Government Railway Inspectors) being a platform for discussion for the railways' technical inspectorates in Europe. The seminar was to provide an overview both of the various known methods for the overall assessment of risks and measures – which must after all be a key element of every official safety inspection concept – and of the RID Committee of Experts efforts to improve safety in the carriage of dangerous goods by rail in general, on the basis of proposals from its working group on tank and vehicle technology. The purpose of the discussions was to reveal to what extent there are common conclusions in respect of both sides' future work.

#### What is the issue?

- Today, railway safety is much more of a "public issue" than it was previously, which ultimately means that it must be convincingly demonstrated to the public that there is sufficient, appropriate safety in respect of railway operations. This requires an all-encompassing approach that cannot be restricted to "internal" systems safety (i.e. safety in the narrow sense) and that can no longer simply be left up to the railways.
- In recent years, there have been seminal developments in this respect: legislative (see, e.g., Swiss legislation on environmental protection), structural (particularly in the wake of the European railways reform) but also methodological (e.g. strongly influenced by the debate concerning the safety of long railway tunnels). Recently, the risk potential to be considered has become even broader. In addition, the issues surrounding transport security have come into play, bringing in a whole new dimension.
- This development is manifested through continuously increasing and expanding requirements for the railways and for peripheral participants, with a rapidly growing need to demonstrate proof in the context of an increasingly "integrated" way of looking at matters.
- Another manifestation of this development is a new and enhanced internationality with a stronger need for harmonization, which, not least of all, explains the planned EU rail safety Directive. The approach being adopted there, with the Common Safety Targets (CST), Common Safety Methods (CSM) and Common Safety Indicators (CSI) is right along these lines.
- On the other hand, a lot of questions remain open. In reviewing the different approaches to overall assessment, there is no unity with regard to methods. Uncertainty results from changed and as yet unconsolidated arrangements between the participants, with new people involved, and new responsibilities/interfaces. It is important in this respect to pursue a sensible line with sufficient force and assertiveness. There is a danger of oversteering, partly because "too many cooks..." and perhaps because of there being too much anxiety in the face of the media and public opinion, and partly because of fundamental

opposition and a lack of understanding of current requirements on the part of the conservative railways. Ultimately, it is a question of obtaining for the railways, which in themselves are a safe means of transport, the conditions for competitively flexible, profitable operations.

The issue is therefore the future handling of railway safety under different conditions in the sense of a "new, comprehensive safety technology".

#### **ILGGRI's function; correlation with the RID Committee of Experts**

At the start of the seminar, the need became apparent to get up closer to the ILGGRI "phenomenon" in order to throw light on its role, with a view to that of the RID Committee of Experts.

ILGGRI should be understood as a reaction to the increasing significance of international cooperation among railway inspectorates in the fallout from the reform of the railways in Europe. Its particular merit, which should also retain its appeal in future, comes from the concept of an informal platform for contacts, which thanks to the minimum amount of formality in the absence of a fixed headquarters and thanks to its discussions being in principle restricted to English only, means that it requires no special budget and no corresponding funding. This informal platform can deal flexibly with problems that arise and to this end can easily make the contacts that seem necessary, including with external organisations or people; and thanks to the influence of the individual members who participate, but also de facto, it can certainly produce effects.

In contrast, the RID Committee of Experts is a decision-making body established under international law with a crucial function in a context which is today worldwide. The Committee ensures legislation and the development of legislation covering the carriage of dangerous goods by rail that is harmonized with all the other transport modes. This function may not of course be called into question by ILGGRI's programme by duplicating work or by circumventing the usual decision-making channels. On the other hand, it might be useful in future to foster connections that can be used as required, depending on the situation, with each body having regard to its own role and possibilities,.

#### **Different approaches to "integrated, risk-based safety assessment"**

The four different approaches presented at the seminar cannot be described in detail here. You are instead

referred to the OTIF website, where all the meeting documents can be freely accessed.

The **Swiss approach**, based on an environmental protection act that was passed very early on, and based particularly on the so-called "Störfallverordnung" (≈ Ordinance on the protection against major accidents"), which is concerned both with the people affected in the context of an incident and with the environment affected. Serious accidents (Zurich-Affoltern) had a major influence, and they underlined the need for an all-embracing, quantitatively based assessment of risks and measures. The result is a transparently elaborated proof-oriented method which enables both a network-wide and individual new building project related assessment of whether a defined, acceptable level of safety has been observed ("acceptability indicator" as a sum curve of acceptability limits on a probability/damage scale graph). Starting with some substances that are widely carried in dangerous goods transport, application of the method across the network has shown that for 34 km of the Swiss rail network, there are unacceptable risks to people. The competent Ministry has concluded an agreement with the key partners (Swiss railways, chemical companies that load goods), that provides for a whole range of measures which together provide the necessary corrective treatment. However, some questions arise in the international context: How can the Swiss concept of measures be prevented from becoming an undesirable independent initiative? Can the method be refined by working with or without an "aversion coefficient" depending on the area of application (disaster procedures, optimization of safety measures)? Is it ensured that road and rail receive equal treatment?

The **Dutch approach** is based on methodical groundwork (definition of the system, quantitative risk analysis, assessment criteria) which is also applied in the Swiss approach. It comes into its own where "external safety" is under discussion and is limited to personal safety (the safety case for a tunnel, for example, is part of "internal safety"). Application of the full approach is reflected in an amended policy, alignment of legislation, which also impinges on the structuring of the rail network and on operational arrangements, and delivers multifaceted "products", such as a countrywide risk map.

The **French approach**, GAME (globalement au moins équivalent/globally at least equivalent), is an intentionally pragmatic approach based on known and recognized information. The intention is to avoid questionable assumptions, such as how people will behave. The approach can be applied to all modes of

transport as a systematic, clearly determined evidential process with an overarching aim in accordance with the law. In principle, cost/benefit considerations do not figure in the GAME approach. They are a consequence, not least, at present, in connection with legislative initiatives for improved railway safety, which must also incorporate the guidelines of EU Community law.

Behind the **UK approach** lies the conviction that risk is ultimately to be viewed as a general social problem which, starting with the main areas of risk, requires political guidelines on how to deal with them. At the centre, there must be a risk-based decision process – conducted in accordance with the ALARP principle (as low as reasonably practicable) and backed up by defined criteria on the extent of the risk. A calculation of the benefit is also part of such a process, and this can if necessary be varied in order – politically – to influence the cost/benefit ratio. This brings uncertainties into play, which in comparison with what is known, are to be kept transparent (best practice) and not with theoretical/absolute ideas.

#### Developments in the area of RID

As a result of accidents, a national working group comprising international experts was set up in Germany with the broad task of highlighting, and if possible evaluating, technical and operational measures that would make it possible to achieve further improvements to the standard of safety in the transport of dangerous goods by rail. Its concluding report containing a large number of proposed measures was submitted to the RID Committee of Experts. The Committee decided to have some of the proposals with more technical consequences elaborated further in a working group of its own on tank and vehicle technology, and to deal with the remaining proposals itself, particularly those concerning telematics and operations.

The proposals from the RID working group on tank and vehicle technology are now available. The RID Committee of Experts considered them at its meeting which was held before the joint seminar with ILGGRI, and reached decisions which go beyond the traditional boundaries of RID:

- High performance buffers for tank wagons and battery wagons for particularly dangerous substances
- Energy absorption elements for tank wagons and battery wagons for particularly dangerous substances
- Design of tank wagon attachments.

In this way, the Committee of Experts has fixed its sights on railway safety in its broadest sense. At the interface between the specific rules for the carriage of dangerous goods and their transposition into railway technology and operations, the Committee is drafting guidelines which are also to be judged in accordance with the criteria of an overall consideration of risks.

The working group will remain in place. It has been given additional tasks which will support the broadened standpoint of the RID Committee of Experts.

#### Findings, prospects

The purpose of the joint RID Committee of Experts – ILGGRI seminar was not to achieve specific aims or even to decide upon measures. The focus was on attempting to provide an overview of the main approaches known about today for an overall risk-based assessment of safety and measures, and to give consideration to the benefits to be gained both by the RID Committee of Experts and ILGGRI and the railway safety inspectorates represented at the seminar.

In this respect, the following should be noted:

- The range and methodologies for considering safety both in the rail sector and generally have recently become broader and more systematic. The basic findings in safety technology are still current; but they are entering into a "new way of thinking", characterized by a systematic, risk-based, proof-oriented procedure. This in turn requires defined risk acceptance benchmarks.
- On the one hand, the approaches presented here display clear differences, particularly as regards their underlying philosophy in dealing with risk and the range of application. On the other though, they have a lot in common. The individual elements of the new thinking and of an all-embracing safety technology are all contained in all the approaches. In each case, they are applied in accordance with a defined process.
- The approaches are to this extent interchangeable, which at the same time demonstrates that they cannot be made absolute. Ultimately, they are **methods** that are more or less suitable, depending on the application scenario, which must be clearly defined (assessment of new building projects, optimization of safety measures, legislative improvements, disaster procedures) and that are

affected by different degrees of uncertainty and problems.

- These findings are without doubt relevant for ILGGRI and the railway safety inspectorates, as they demonstrate not least that a considerable opinion and consensus building process will be necessary in order to be able to specify the desired common safety targets, methods and indicators (CST, CSM, CSI) in the EU Safety Directive.
- They are equally relevant for the RID Committee of Experts, because they make it clear that updating the regulations must follow an integrated, risk-based, proof-oriented "new safety technology".

(Translation)

### **Visit to Iranian Islamic Republic Railways (RAI)**

*Tehran, 10-13 December 2002*

At the invitation of RAI (Iranian Islamic Republic Railways), the Director General spent 11 to 13 December 2002 in Tehran. The purpose of the visit was to further OTIF/the Central Office's relations with its Member State, Iran. Iran is also currently represented on OTIF's Administrative Committee. The country, which is a member of both OTIF and OSZhD, is situated in an important geographical position as far as transport is concerned, which is also of great interest from the European perspective, with a view to the improvement of opportunities available to the railways over a wide geographical area, particularly with respect to freight traffic. Indeed, the EU's intention of acceding to COTIF 1999 means that OTIF is called upon to play an active role, together with Iran.

The Islamic Republic of Iran, with a rail network of around 7,000 km, of which 1,200 km is double track, with origins going back more than a hundred years, is situated at the junction of two important corridors – a west/east corridor which travels overland through Hungary, Serbia, Bulgaria and Turkey, crosses the North of Iran and continues via Turkmenistan, Uzbekistan and Kazakhstan into China, and a north/south corridor which travels through the Russian Federation, using shipping connections over the Caspian Sea to reach Iran, through which it travels overland to arrive at the Iranian ports in the Persian Gulf and the Gulf of Oman. These ports ensure connection via

maritime routes to India and South East Asia. In the longer term, an overland connection to Pakistan and India is also being considered, which, in addition, could be linked up to the west/east corridor and its axes into Europe. A connection with China has been established by means of a newly built short section of line at the border between Iran and Turkmenistan, which is reviving the famous "Silk Road". In the broader context, the TRACECA Corridor can also be added to the west-east corridor referred to above, in Eastern Europe and the Caucasus region. The TRACECA Corridor includes, in Eastern Europe, the Ukraine and Romania, shipping connections over the Black Sea, continuing overland through Georgia and Azerbaijan, as well as shipping connections over the Caspian Sea, joining up with the new Silk Road in Turkmenistan. In the long term, all these corridors should undoubtedly play an increasingly important role in international freight transport and thus also particularly for the railways. Considerable traffic potential is forecast for them. Iran plays a key role and is also aware of this, which is given expression in a very ambitious programme of building development for the rail infrastructure. 9,000 km of new railway lines are to be built within twenty years. 3,000 km of these are already under construction and 6,000 km are at the planning stage. It is reckoned this will be continued with a suspected record of 500 km of newly built lines per year, at best. The new 900 km long main line between Mashhad and Bafq is the top priority, and this will enable Central Asia to be linked with the ports in the Gulf of Oman. A similarly ambitious programme of investment is in place for rolling stock. Carrying out these projects is expected to lead to growth rates of 6% to 7% per annum, although there are also other stumbling blocks to be overcome which are more to do with rail operations, not least the legal conditions for international freight transport and the conditions concerning border crossings. On this matter, Iran is therefore very interested in the involvement of international organisations such as OTIF.

In order to make the railways "better", a process for reforming them is also taking place in Iran. The background to this process, and its objectives, are very much comparable to the European process for reforming the railways. The process in Iran is taking a very interesting route: the focus is on a logical, step by step move towards privatizing all branches of the railway where this is suitable. At the forefront is maintenance, including complete renovation, particularly of rolling stock. But the potential for contracting out to private companies is also being systematically embarked upon in respect of infrastructure, in the areas of planning and the construction of new infrastructure, and in various operational branches. The result is, to a certain extent, a

process of "bottom up" privatization, the aim being to slim down the railway undertaking and to exploit the opportunities that present themselves for rationalization and the reduction of costs. However, the railway undertaking will still retain control. For the time being, it is not quite so important how State/rail undertaking and infrastructure/transport relations are ultimately formally regulated. There has already been an initial structural reform with largely independent responsibilities for freight and passenger traffic. But the next steps depend on which railway undertaking will remain after the process of privatization. This could for example be concentrated on responsibility for the system, development policy and managing the process of expansion, and on ensuring quality and safety, whilst independent parts of the undertaking could be responsible for managing the infrastructure and traffic, accompanied by a whole range of completely private companies operating in the competitive market. In such a bottom up development, the question of the "integrated enterprise" which is discussed intensely within Europe becomes rather relativized.

A particular problem arises for Iran as a result of the sanctions imposed by the USA. Within RAI, a comprehensive information technology concept is being put into operation which is penetrating all branches and which serves both efficient processes and a flow of information delivering the necessary management data. There are also projects on this for international transport, where Iran, with the high standard it has already achieved, could play a leading role in working together with its neighbours. The restrictions to which Iran is subject prevent the latest technology support, particularly software, from being put to use. As a rule, the necessary support from development companies cannot be got hold of, to the disadvantage of international rail transport in the region.

An assessment of the potential for developing overland freight transport on the corridors that affect Iran, and the opportunities for the railway in this context, makes clear the importance of having a transport law for international rail transport that is harmonized over a wide area. Even if SMGS continues to be significant for the time being in this situation, depending on a country's prevailing interests, it is clear on the other hand that the COTIF system should find application over as wide a geographical area as possible in those places where the market conditions are in place. This will endorse OTIF's strategy, based on COTIF 1999. There is no doubt that it is right, with a particular view to the west/east corridor, to seek new members for OTIF in the area up to and including Central Asia, at least those that for the time

being have double membership of both OTIF and OSZhD (the Ukraine, Georgia), but also new members (e.g. India). In the long term, the undisputed aim should be to have available harmonized transport law for international rail transport.  
(Translation)

## Visit to the Arab Union of Railways

*Aleppo, 14-16 December 2002*

In the Director General's programme of contacts, it had already long been planned to visit the leading exponents of the Arab Union of Railways (UACF) at its headquarters in Aleppo, following initial relations established in 2001 at a congress organized by UACF in Rabat (Morocco). Even then, there was already some discussion about another OTIF training course. It had originally been planned to combine the Director General's visit to Aleppo with the celebrations for the 100 year jubilee of Syrian railways and with an international congress organized by UACF in connection with this. However, owing to a clash of appointments, this idea could not be put into action. In the end, the visit took place in conjunction with the Director General's trip to Iran (see p. 91).

The meeting held on 14/15 December 2002 provided the opportunity to strengthen personal contacts and to obtain at first hand a report on the events surrounding Syrian railways' jubilee. Individual contributions to the UACF congress programme had already been published in the October edition of the UACF magazine. The complete set of contributions to the discussion at the congress, which was held in Aleppo on 12 and 13 October 2002, is also available already. Among them is a contribution from the Director General of the Central Office, the French version of which can also be accessed on the OTIF website.

A panel discussion that took place in the context of the jubilee event and the related congress once again made clear where most of the Arab railways' main problems lie:

- In many respects, they are outdated in comparison with modern railways, particularly those in central Europe. A detailed and very disturbing analysis by Mohamed Talaat Khattab in the October edition of the UACF magazine bears eloquent witness to this.



## Book Reviews

- A major reason is the unfavourable conditions created by the State in each case, who to a certain extent, clearly prevent the railways from closing the gap, and prevent the opportunities for the railways from being exploited through innovative, enterprising handling of the management of the railways:
  - There is no consistent overall transport policy in which the railways have been given a clear, future-oriented role.
  - The railways are subject to a lot of restrictions and interference which prevent them from achieving the income necessary for them to modernize and rationalize. They are to a certain extent compelled to maintain a workforce which, from the point of view of the revenue from transport and modern management, is no longer justifiable.
- There are also a lot of other restrictions that hinder domestic transport in the various States, and also at the borders, with repercussions for international transport.

The railways have set out the requirements that would be necessary to improve the situation; they have in particular been submitted to the League of Arab States, which has its headquarters in Cairo, as the view is that the problems cannot be resolved at national level alone. While on this subject, it should be mentioned that in accordance with a request made at OTIF's Administrative Committee, the Central Office is to try to establish relations with the people responsible for transport in the League of Arab States (and in the Union of Maghreb States), in addition to contacts with UACF.

A specific outcome of the Director General's visit to UACF was the decision to put in hand preparations for another OTIF course – this will be the fourth – for the Arab States, to be held in the first three months of 2004. The course venue should be in an Arab State. The starting point for the course model should be that used for Estonia in October 2002 and the lessons drawn from it. Securing funding that will result in attractive conditions for those participants who should be involved will be a particular problem. Having the next OTIF course in 2004 also fulfils the strategy in this respect, as defined at the OTIF Strategy Meeting in Berne in March 2002.

(Translation)

**Allégret Marc**, *Transports publics de personnes et de marchandises – Loi d'orientation des transports intérieurs* (L. n° 82-1153, 30.12.1982), (Public passenger and freight transport Act on the reorganization of inland transport – French S.I. No. 82-1153, 30.12.1982), *Juris-Classeur commercial*, volume 608 (with update 8, 2000 up to 31.3.2002).

As in the other volumes of this series of publications, the actual commentary on the Act on reorganizing inland transport in France (LOTI) is preceded not only by a detailed table of contents and a subject index, but also by a summary of the key points.

Among the most important principles, the following should be mentioned in particular:

- The inland transport system organized in accordance with LOTI is to meet the requirements of users, and this must be done under the conditions that are most favourable, both socially and economically, to the general public, and that take account of environmental protection.
- The right to transport is to be made reality step by step. In so doing, the user is free to choose the means of transport and transport undertaking.
- An overall transport policy creates the basis for fair competition between the modes of transport and promotes the mutual complementary nature of, and cooperation between, all transport modes.

The history of how the Act came about as a whole and the individual provisions that gave rise to discussions are presented. The European Commission's position on the draft Act submitted by the French Government is quoted in relation to various provisions.

In 1984, the essential features of the LOTI were set out for readers of this Bulletin in an article by the same author (see Bulletin 1-2/1984). The new commentary offered is built upon these essential features, the explanatory material has been extended and the 13 amendments there have been to the LOTI since then have been taken into account. After a general introduction, the presentation follows the structure of the Act, also taking the executive decrees into

consideration. The revision is marked by the customary great care that this author takes.

Of particular interest is the explanatory material on the legal structure of the Société Nationale des Chemins de fer Français (National French Railways Society, SNCF) as a public (industrial and commercial) economic institution (établissement public industriel et commercial), a corporate body whose method of doing business is however substantially subject to private law principles. France's rail network, "Réseau Ferré de France" (RFF), set up in 1997 as a public economic institution, is also presented and the relationship between RFF and SNCF is touched upon briefly. On the one hand, RFF levies a charge for using the infrastructure and on the other, pays the appropriate price for the services provided by SNCF, particularly for maintaining infrastructure facilities.

One chapter is devoted to each of the other transport modes. In comparison with the earlier version, new developments in the road freight transport sector had to be taken into account. These developments have come about as a consequence of the European Community's legislating with liberalization in mind. Additional explanatory material covers, amongst other things, the newly established conditions for issuing licences and the effects of Community operating licences and cabotage on French domestic transport. In addition, the partly new arrangements in respect of the relationship between the main carrier and the subsidiary carrier are covered.

In both the road transport and inland waterways sectors, model contracts were elaborated in the nineties and approved by means of Orders. The user will find in this volume a complete list of these model contracts, which are valid as subsidiary law. With regard to their contents, reference is made to the "Lamy transport 2001" publication.

Following adaptation of some key provisions of the LOTI during its twenty years in existence to developments in the transport sector, the author considers that the Act is still a serious organisational achievement in the French inland transport sector, even if not all the problems have been resolved. The clear and comprehensible presentation of the Act in which, on the one hand, the most important principles of French transport policy are set out and which, on the other, contains normative provisions concerning railway transport in particular, is warmly recommended to readers.

(Translation)

**Bidinger Helmuth**, *Personenbeförderungsrecht* (Law on the Carriage of Passengers), commentary on the Carriage of Passengers Act and other relevant provisions, 2<sup>nd</sup> completely revised edition into which supplements can be inserted, continued by **Rita Bidinger**, ISBN 3503008195, supplement number 2/02, as at June 2002, Erich Schmidt Verlag, Berlin-Bielefeld-Munich

The book, produced in 1961, the 2<sup>nd</sup> loose-leaf 1971 edition of which is continuously adapted to developments in the law, contains 3,638 pages in two folders. As previously, the commentary on the current version of the German Carriage of Passengers Act forms a major part of the work. The text of the Act (the version published in 1990) has in the mean time undergone several amendments, most recently through the Equality of Disabled Persons Act and the Act on Amending Other Acts of 27 April 2002. This new Act requires that local transport schemes must take account of the interests of the disabled and others with restricted mobility, the aim being to overcome as many obstacles as possible in the use of local public passenger transport. Accordingly, it is required that the measures to achieve this aim be set out as part of the application for an approval to be issued.

Supplement 2/02 contains a completely revised commentary on the provision in the Carriage of Passengers Act concerning transport using hired buses and hire cars (§ 49). Several texts of other provisions applicable to the carriage of passengers printed in this book have been updated, including the Regulation on the compensation for public rail transport services.

The commentary on passenger transport law, the development of which has been followed under this heading for many years, still fulfils its objective of "ensuring practice-oriented and sound commentary on the law on the carriage of passengers".

(Translation)

**Spera Kurt**, *Handel- und Transport (Handbuch für Güterbeförderung in den Außenwirtschaftsbeziehungen)* (Trade and Transport (Handbook on Freight Transport in External Economic Relations)), published by Logotrans, Logistics and Transport Consultancy GmbH, 2002, Vienna, 546 pages, ISBN 3-901472-03-1

This book, which has just been published – the manuscript was finished on 15 August 2002 – is the new edition of the book by the same author entitled "Kaufrecht und Transport" (Purchase Law and

Transport), which was comprehensively reviewed in Bulletin 1/2000.

As a result of the rapid transformation the transport industry is undergoing and ever-changing legislation, up to date information on the law is very important for all those concerned.

The contribution this book makes is to emphasize the relationships between international purchase law and international freight transport and to deal with them in a single book for use in the field.

The book extends over 500 pages, although the format is considerably smaller and less unwieldy than previously.

As in the past, the Incoterms 2000 are dealt with extensively. Here, it is primarily the demands of the daily work of foreign trade and transport industry sales people that are covered. In connection with this, there is also a chapter on transport insurance. The list of abbreviations also serves as an index, which makes it easier to use the book. Please refer also to the reviews in Bulletins 1/2000 and 6/1998.

The bibliography has been expanded and updated. It is aimed essentially at the requirements of practitioners, but it is still not really adequate for academic purposes.

As the book is not a judicial commentary, but a handbook for students and for use in practice, "Trade and Transport" can be warmly recommended to all those interested, for the purposes of study and use.  
(Translation)

### **Publications on transport law and associated branches of law, and on technical developments in the rail sector**

*Bulletin des transports et de la logistique*, Paris, n° 2954/2002, p. 579 – Aérien. Quand le voyage tourne court (M. Tilche)

*Idem*, n° 2965/2002, p. 780/781 – Actions récursoires. Le piège de l'international (M. Tilche)

*Idem*, n° 2967/2002, p. 822-824 – Fluvial : Quelle modernisation ?; p. 826 – Aérien. Bientôt Montréal (M. Tilche)

*Idem*, n° 2968/2002, p. 836-838 – Conserver ses recours. Attention aux délais ! (M. Tilche)

*DVZ - Deutsche Verkehrszeitung*, Hamburg, Nr. 128/2002, S. 1 – Neue ADSP sollen vom 1. Januar an gelten

*Idem*, Nr. 135/2002, S. 2 – Neue ADSP ohne Automatismus

*Idem*, Nr. 137/2002, S. 8 – Im November: ADR 2001/2003 auf einen Schlag (U. Wenz)

*Idem*, Nr. 142/2002, S. 10 – Neue ADSP bergen noch viele Unsicherheiten

*Gefährliche Ladung*, Hamburg, Nr. 11/2002, S. 22/23 – ADR kompakt III. (W. Spohr); S. 32-34 – Zügig beraten I. (J. Conrad)

*Internationales Verkehrswesen*, Hamburg, Nr. 10/2002, S. 492-495 – Diskriminierung ja oder nein? Inhalt und Reichweite des „Netzzugangsanspruchs“ aus Paragraph 14 AEG (R. Brauner/H.-J. Kühlwetter)

*Journal pour le transport international*, Bâle, n° 47/2002, p. 19 – La bureaucratie met l'économie en péril. Quel ADR s'applique ? Deux régimes (J. Müller)

*Idem*, n° 48/2002, p. 28/29 – De la lourde charge de la preuve. Possibilité de responsabilité dans la Convention de Varsovie (E. Boecker)

*Transidit*, Rouen, n° 34/2002, p. 1-10 – Réflexions sur le privilège du transporteur (F. Létacq)

*Transportrecht*, Hamburg, Nr. 9/2002, S. 325-334 – Laden und Ladungssicherung im Straßengüterverkehr – Wer ist verantwortlich? (D. Neufang/H. Valder); S. 334/335 – Zur außervertraglichen Haftung des Frachtführers (und seines KFZ-Haftpflichtversicherers) für Folgeschäden

*Idem*, Nr. 10/2002, S. 382-385 – Methods of Interpreting the CMR Convention (J. Schelin); S. 385-392 – The Scope and the Liability of the CMR – Is there a Need for Changes? (S.O. Johansson)