



Intergovernmental Organisation
for International Carriage
by Rail

Bulletin
of International
Carriage
by Rail

3/2008

116th Year • July - September

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**Annual subscription to the Bulletin : SFr. 48,-
Orders are to be sent to :**

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3/2008

116th year – July - September

Bulletin of International Carriage by Rail

Quarterly publication of the OTIF

In case of reproduction of essays and texts translated by the Secretariat of OTIF, full acknowledgment of author, publisher and source must be given. The opinions expressed in essays are those of the authors.

Official Communications from the Secretariat of OTIF

Accession to COTIF

Estonia

On 19 January 2005, the Government of Estonia made an application for accession to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980. The application for accession in accordance with COTIF 1980, which was made after the Protocol of 3 June 1999 (Vilnius Protocol) was opened for signature and before its entry into force (01.07.2006), was also considered as an application for accession to COTIF 1999 (Art. 3 § 4 of the Vilnius Protocol). No objections were lodged by the Member States within the deadline laid down in COTIF 1980.

Estonia deposited its instrument of accession on 20 August 2008. Estonia's accession will take effect on 1 January 2009 (Art. 37 § 3 of COTIF). COTIF and those of its Appendices, the application of which has not been ruled out by means of a declaration (Art. 42 of COTIF), will enter into force for Estonia on 1 January 2009. The scope of application of the CIV and CIM Uniform Rules will be limited to the Tallinn-Tapa-Valga railway line¹.

¹ The Secretary General's circular concerning the list of lines will be

An overview of the state of signatures, ratifications, acceptances and approvals of the Vilnius Protocol and its Annex, COTIF 1999, and of the accessions to this Protocol or to COTIF², including the reservations and declarations lodged by the Member States, and the texts of the reservations and declarations³, are published on OTIF's website.

(Translation)

Call for applications for the post of Secretary General for the period from 1 January 2010 to 31 December 2012

The present OTIF Secretary General's term of office is due to end on 31 December 2009. He was appointed by the Administrative Committee in accordance with Article 7 § 2 (d) of COTIF 1980, in conjunction with Article 26 § 1 and Article 32 § 1 of the Staff

sent out in October 2008, together with the circular concerning Estonia's accession to COTIF. A communication on this will be published in Bulletin 4/2008.

2 http://www.otif.org/html/e/pub_cotif_03_06_1999.php - OTIF - Publications – Convention – COTIF (3.6.1999) – Depository (Secretary General) (Art. 36 of COTIF) – State of the signatures, ratifications, acceptances, approvals, accessions and entry into force

3 http://www.otif.org/html/e/pub_cotif_03_06_1999.php - OTIF - Publications – Convention – COTIF (3.6.1999) – Declarations and reservations

Regulations of the former Central Office of OTIF for a period of 5 years (01.01.2005-31.12.2009).

Some important changes were introduced with the entry into force of the Vilnius Protocol, and hence COTIF 1999, in so far as the Secretary General, as head of the Secretariat of OTIF, will in future be elected by the General Assembly in accordance with Article 14 § 2 (c). According to Article 21 § 2, he will be elected for a period of 3 years, renewable twice at most. If the current post-holder should decide to apply for re-election, bearing in mind the time he has already spent in post, he could only be re-elected once more after being re-elected by the General Assembly.

In the event that a new Secretary General is elected, in order to provide the necessary transitional period, the 8th General Assembly decided to carry out the re-election of the post-holder or the election of a new Secretary General at its 9th session, which in accordance with the decisions of the General Assembly, should be held in September 2009.

It is the Administrative Committee's responsibility to make the preparations for this election decision by the General Assembly and to draft the relevant documents to be submitted to the General Assembly. The Administrative Committee's decisions on this issue must be taken no later than at its 111th session, which it is anticipated will be held in May 2009.

According to Article 26 § 3 of OTIF's Staff Regulations, the Secretariat has informed the Member States of this situation in good time. The minimum period allowed for the submission of applications by the Member States is normally 6 months.

The Administrative Committee has therefore invited the Governments of the Member States to send any applications directly to the Secretariat of OTIF, marked for the attention of the Chairman of the Administrative Committee.

The period for the submission of applications began on the date the circular was sent, 13 September 2008, and will end on 13 March 2009.

Applications not received in due and proper form from a Member State of OTIF will not be accepted. Applications must be on behalf of nationals of a Member State of OTIF, but applicants need not necessarily be a national of the proposing Member State.

In the event that more than three applications are received, the General Assembly has instructed the

Administrative Committee to prepare a list from among the applications, setting out the three applications that best satisfy the qualification profile for the post of Secretary General of OTIF. This profile has been adopted by the Administrative Committee.

Legal Matters concerning COTIF

Publications and interesting Links

Bulletin des transports et de la logistique, Paris, n° 3233/2008, p. 475 – Aérien voyageurs. Cloué au sol ; p. 476/477 – Emballage/Chargement. Où est la frontière ?, p. 477/478 – Lettre de voiture électronique. Signature SVP ! (M. Tilche)

Idem, n° 3234/2008, p. 496 – CNUDCI (Projet de Convention pour le transport de marchandises [effectué entièrement ou partiellement] par mer). L'ire du chargeur (M. Tilche)

CIT-Info (Comité international des transports ferroviaires / Internationales Eisenbahntransportkomitee / International Rail Transport Committee, CIT) <http://www.cit-rail.org>, éditions/Ausgaben/editions 6/2008, 7/2008

Deine Bahn (Zeitschrift von DB Training, Learning & Consulting und des Verbandes Deutscher Eisenbahnfachschulen), Nr. 9/2008, S. 2-7 – Durchgehender Schienengüterverkehr vom Atlantik zum Pazifik (Th. Leimgruber)

European Transport Law / Droit européen des transports / Europäisches Transportrecht, Antwerpen, No. 3-2008, p. 257-280 – Multimodal carriage with a pinch of sea salt: door-to-door under the UNCITRAL Draft instrument (M. Hoeks Lim); p. 281-287 – "FCL FCL"¹ Container (r)evolution (T. Jumelet)

Transportrecht, Hamburg, Nr. 6/2008, S. 239-241 – Anspruch des Empfängers gegen den Unterfrachtführer aus dem Unterfrachtvertrag? BGH I ZR 50/05 vom 14.6.2007 und die Folgen (R. Herber)

Zbornik Pravnog fakulteta u Zagrebu, 1-2/2008, p. 47-75 – The Uncitral Draft Convention on the Carriage of Goods (Wholly or Partly) (by Sea) (F. Berlingieri)

1 Full Container Load

Transport of Dangerous Goods

Sub-Committee of Experts on the Transport of Dangerous Goods (UNECE)

33rd Session

Geneva, 30 June-9 July 2008

Experts and observers from 29 countries and 41 governmental and non-governmental international organisations took part in the work of this third session of the 2007-2008 biennium for the 16th revision of the UN Model Regulations under the chairmanship of Mr R. Richard (United States of America) and the vice-chairmanship of Mr C. Pfauvadel (France).

A record number of almost 150 official (2/5) and informal documents (3/5, all in English) were submitted. The breath of fresh air that was blowing through the Sub-Committee has become noticeably staler (see Bulletin 3/2007, p. 47-49 and Bulletin 4/2007, p. 71-72). The delegates were no doubt afraid that it's an ill wind that blows nobody any good ... and the way things are at the moment, the wind could be a tornado, a cyclone, a hurricane or even a typhoon (see also p. 37).

For example, with regard to **dangerous goods packed in limited quantities** and exempt from the regulations, the Sub-Committee was content with a consensus on a new marking (diamond-shaped pictogram) which does not even show the UN No. of the substance or indicate that the goods are dangerous. No labelling or transport document is required. Neither was the desired multimodal harmonisation of the goods and quantities concerned taken into account. The amalgamation of the provisions applicable to limited quantities with those applicable to consumer goods in maritime transport was forgotten about. Some delegates were of the view that a major step forward had been taken, but when compared with the objective of harmonisation, it would seem rather that they were making a mountain out of a molehill. The unfortunate emergency services (firemen), who will have to take action in the event of an incident or accident (a fire) will have to get on with the job without any information and at their own risk and peril, while a few civil servants will be sitting quietly and comfortably in their offices (see also p. 37). Luckily, some modes of transport, particularly in Europe, are not as lax, unless they are forced to be so.

With regard to **electronic data interchange (EDI) for documentation purposes** (see Bulletin 4/2007, p. 71), the Sub-Committee decided to draw up a plan of action for the work to be carried out in the next biennium, bearing in mind the work on telematics, particularly in the RID/ADR Joint Meeting's working group on telematics.

In the context of **special provision 274** (see Bulletin 4/2007, p. 72), the ball is still in the Sub-Committee's court. In order to gain time, the Sub-Committee has asked for additional justification, although the reasons given for this request are different: it is not the task of the Model Regulations to align with the transport modes, rather - by virtue of the dogma of infallibility - it is the other way round, since harmonisation is apparently a one-way street.

Other subjects were dealt with, such as serious accidents or incidents (involving fireworks, batteries and gases) occurring in maritime transport or after carriage by air and which could have had major consequences if they had occurred during carriage rather than in an airport storage facility or on the consignee's premises. In these areas, things develop in such a way that tests and classification criteria in the regulations can often only be amended or determined after the event, just like antidoping checks in sport.

The example of a multimodal dangerous goods form contained in the UN Model Regulations and RID/ADR is no longer particularly popular in the Sub-Committee of Experts, given that it is only really used in maritime transport, while contracts of carriage exist under COTIF, CMR and IATA. This issue could be brought to the attention of UN/CEFACT, which had originally developed this recommendation for the purpose of facilitating trade and transport.

For reasons of resources and publication deadlines, the Sub-Committee also decided no longer to highlight in the Model Regulations amendments that enter into force, as is done for example in RID/ADR. On the website however, amendments will be highlighted in the English version of the 16th edition in order to make the translators' work easier.

Lastly, the Sub-Committee adopted about thirty pages of new text or amendments plus another twenty pages adopted at the last two sessions.

The full text of this report can be consulted on the UN/ECE Transport Division's website.
(Translation)

RID/ADR/ADN Joint Meeting

Geneva, 15 - 18 September 2008

Experts from 26 Governments (including the USA) and 16 international governmental organisations (including the European Commission and OSJD) and non-governmental organisations (including UIC, UIP, CEN and IRU) took part in the work of this session chaired by Mr C. Pfauvadel (France).

This was a small scale meeting which should have been shortened by two days. In the end, it was shortened by one day. There were only 11 official documents on the agenda and a dozen informal documents, some of which were reports of working groups that have not yet finished their work. Bearing in mind that issues relating to tanks and standards were also dealt with in working groups during the session, the Joint Meeting had more than enough time to deal with the few problems that were raised. Two of these each “required” half a day of discussion. In other circumstances, one hour would have been sufficient for each subject, but when you have the time, why deprive yourself?

One issue was to adopt the Joint Meeting’s new Rules of Procedure, which have been aligned with those of the RID Committee of Experts and WP.15 for ADR (see Bulletin 1/2008, p. 6). The quorum has changed from one third to one quarter of the participants, owing to the fact that there are 55 Member States of ECOSOC – some of which, e.g. the USA and Canada, are not Member States of COTIF or Contracting Parties to ADR, but nevertheless still have voting rights – and the quorum could cause problems, even though on average, 25 States attend. The problem of sharing votes has not been resolved and the meeting will come back to this on the basis of the solution contained in the Rules of Procedure of the RID Committee of Experts, and other matters dealt with in those Rules of Procedure might be added. It was pointed out that the Joint Meeting is not strictly speaking a decision-making body, as it only prepares decisions for the competent organs, which are the RID Committee of Experts and WP.15. No mandate was included, because they already have their own. With regard to the standardised presentation of documents, the representative of Portugal said he would like the authors of documents really to supply the justification requested concerning the effects of proposals on safety, their feasibility and actual application.

With regard to the examinations for safety advisors, the United Kingdom’s proposal not to have special categories of dangerous goods safety advisors in the case of

undertakings only dealing with the transport of specific types (explosives, gases, radioactive material or petroleum products), since these advisors should be qualified in all classes, was rejected. The meeting preferred to maintain flexibility rather than introduce rigidity.

The Joint Meeting invited the working groups on the periodicity of testing for gas cylinders, the reduction of the risk of BLEVE and the scope of RID/ADR to continue their work.

With regard to the working group on tanks, the Joint Meeting adopted among other things a modified definition of mild steel and new provisions on flame-traps and instant closing internal safety devices. It also dealt with devices to protect against the passage of flame and the use of materials for the construction of shells in connection with standards.

With regard to fireworks, it was again noted that many fireworks imported into Europe were not correctly classified. It was suggested that a copy of the competent authority approval related to the classification of the fireworks be attached to the transport document. Others felt that this issue should be addressed by the UN Sub-Committee of Experts on the Transport of Dangerous Goods since it concerned multimodal transport. Competent authorities were encouraged to control and check more frequently consignments of fireworks, bearing in mind that the default fireworks classification is a useful tool for control purposes.

(Translation)

Other Legal Matters

Further useful information on the “Luxembourg Protocol”

There have been regular reports in our Bulletin on the origins and adoption of the Luxembourg Protocol, and more recently on preparations for implementing it (see Bulletin 2/2008, p. 21) in an attempt to get those concerned interested in the Protocol and the Registry of interests in railway rolling stock that is planned to be set up on the basis of the Protocol, and to increase people’s awareness and knowledge of this subject. The following further two important sources of information are recommended to anybody who wishes to look into the material in more depth:

1. UNIFORM LAW REVIEW, published by the International Institute for the Unification of Private Law (UNIDROIT), Vol. XII 2007-3

The edition as a whole is entitled “Secured Rail Financing”, and in addition to the text of the Protocol in English, French and German and an introduction by the Secretary General of UNIDROIT, Professor Herbert Kronke, it contains articles written by ten authors who each elucidate different aspects of the Protocol. The articles start with a comprehensive synopsis by Howard Rosen (solicitor practising in Zug, Switzerland and chairman of the Rail Working Group) of the environment surrounding the Protocol and how it came about, written from the point of view of the railway industry. In his synopsis, Mr Rosen explains why the Protocol represents a major advancement for the railway industry. Other articles look at what is expected of the Cape Town Convention and the Protocol from the African point of view and the importance of the Protocol and the financing of mobile equipment in Latin America. Professor Tatjana Josipović (University of Zagreb) deals with the Protocol in connection with the liberalisation of the railways and the law on secured transactions in Croatia, while the French perspective is explained by Bruno Poulain (lawyer in Paris), who took part in the Diplomatic Conference in Luxembourg as an expert in the French delegation. Another of the authors, Professor Steve Harris (Chicago-Kent College of Law) held a similar position in the US delegation. The comments by Gustav Kafka (OTIF) on the Supervisory Authority and its secretariat, which, according to the Protocol, will be provided by OTIF, are followed lastly by two articles by people who are significantly involved with this material in Germany, namely Hans-Georg Bollweg and Katharina Schnell (both of the German Federal Ministry of Justice) on the Registrar’s liability for the registration of international interests, and an article by Benjamin von Bodungen (University of Mannheim) and Konrad Schott (lawyer in Frankfurt) on the exemption contained in the Protocol for public service railway rolling stock.

2. Official Commentary on the Luxembourg Protocol by Professor Sir Roy Goode, published by the International Institute for the Unification of Private Law (UNIDROIT)

Professor Goode’s Commentary is specific to the Luxembourg Protocol and follows his similar work of 2002 on the Cape Town Convention and the Protocol on Matters Specific to Aircraft Equipment. At the same time, the opportunity was also taken to publish a revised version of the initial Commentary. The Commentary prepared by the author at the request of the Luxembourg

Diplomatic Conference was sent to Conference participants for views before it was published. This, and the fact that Professor Goode played a defining part in the entire process of creating the Protocol, from the drafting of the Cape Town Convention up to the Diplomatic Conference in Luxembourg, where he acted as rapporteur, gives the Commentary the greatest authenticity. A brief introduction with a historical summary is followed by four main parts made up of overviews of the Convention and the Protocol, arranged according to subject, and presentations of the texts with commentaries on the individual provisions. The work is supplemented by twelve appendices which, in addition to the texts of the Convention, the Protocol and the Final Acts of the Luxembourg Diplomatic Conference, together with all the resolutions, contain tables showing the numerous declarations provided in the Convention and the Protocol, the chronology of the principal events in the development of the Convention and the Protocol and a list of key documents.

(Translation)

Co-operation with International Organisations and Associations

United Nations Commission on International Trade Law (UNCITRAL)

41st Session

New York, 16 June – 3 July 2008

The main work of this session, at which OTIF was not represented, was to finalise and approve the draft Convention on Contracts for the International Carriage of Goods wholly or partly by Sea submitted by UNCITRAL’s Working Group III (Transport Law).

From the information available, particularly the report of the meeting¹ and the text of the Convention that was adopted, various provisions, e.g. those concerning volume contracts, were again the subject of detailed discussions, but ultimately, the tendency that emerged was to keep the text that was submitted. This was particularly the case for the “multimodal” Articles 27 (now Article 26, Carriage preceding or subsequent to sea carriage), Article 61 (now Article 59, Limits of liability) and Article 92 (now Article 90, Reservations), where some participants would have welcomed the

¹ <http://www.uncitral.org/uncitral/en/commission/sessions/41st.html>

inclusion of the possibility of making a reservation against application to carriage other than by sea.

Other important decisions concerning the Convention that should be mentioned are:

1. The deletion of Article 13 of the draft (Transport beyond the scope of the contract of carriage), with a note in the report that this should not in any way signal that the draft Convention intended to criticize or condemn the use of such types of contract of carriage;
2. The deletion of Article 36 of the draft (Cessation of shipper's liability) as unnecessary interference in the freedom of contract;
3. The extension of Article 38 (now Article 36, Contract particulars) to include
 - the name and address of the consignee, if named by the shipper,
 - the name of a ship, if specified in the contract of carriage,
 - the place of receipt and, if known to the carrier, the place of delivery; and
 - the port of loading and the port of discharge, if specified in the contract of carriage;
4. The extension of Article 42 (now Article 40, Qualifying the information relating to the goods in the contract particulars) also to take account of the carrier's (limited) responsibility for goods delivered in closed containers when goods are delivered in closed vehicles;
5. The rewording of Articles 47 to 50 (now Articles 45 to 48, Delivery), firstly, for example, to make it more difficult for fraudsters to take delivery of goods, and secondly not to restrict the freedom of action too much;
6. The extension of Article 84 (now Article 82, International conventions governing the carriage of goods by other modes of transport) also to include a reference to future amendments to these conventions; this added a further dynamic reference, in addition to that in Article 86 (a), which is considered unacceptable in some regulations and which is of course useful for the purpose of greater flexibility with regard to the application of COTIF-CIM to carriage by sea (CIM Art. 1 § 4, COTIF Art. 24 § 1).

The approved draft will now be submitted to the United Nations General Assembly for adoption.
(Translation)

Conference of Ministers of the Organization for Railways Cooperation (OSJD)

XXXVIth Meeting

Kiev, 10 - 13 June 2008

As he did last year and in 2005, the Secretary General also took part in the XXXVIth meeting of OSJD's top decision-making body. In accordance with usual practice, an agenda was settled that matched those of previous years, even down to the details.

Significantly, only North Korea was represented at ministerial level, although Lithuania, the Russian Federation and the Czech Republic were represented by Secretaries of State. On the other hand, the vast majority of the Member States (even the Ukraine) were represented by managerial staff from the railway companies, while some States (e.g. Iran, the Slovak Republic) just left it up to their own representatives in the OSJD Secretariat to act for them. Finland, France and the Coordinating Council on Transsiberian Transportation (CCTT) sent observers.

There were few surprises in the discussions on the various items of the agenda. Following the reading of the progress reports on each of the Secretariat's areas of activity, the proposals for decision were mostly accepted unanimously and without discussion. Only in isolated cases were these proposals subject to minor editorial amendments. There was not even any noteworthy discussion on the agenda item covering the activities of the "ad hoc working group to update the OSJD base documents", which the Secretary General had anticipated with great interest. Informally it was revealed that in the past year, the ad hoc group had hardly made any progress on the key issues of transforming OSJD into a purely governmental organisation, overcoming the requirement for decisions to be unanimous and introducing a qualifications standard for filling posts in the Organisation's Secretariat.

The XXXVIIth meeting of the Conference of Ministers will be held from 2-5 June 2009 in Astana (Kazakhstan).
(Translation)

Other Activities

International Summer Academy 2008

17th Event “World Trade
and Transport Logistics”

Sopron (Hungary), 19/20 June 2008

The now traditional International Summer Academy was held for the 17th time under the academic chairmanship of honorary professor Dr K. Spera, managing director of LOGOTRANS GmbH. Railway experts from six countries were represented, including representatives from international institutions, railway and logistics undertakings, international consultants and universities. OTIF was represented by the Secretary General, who gave a presentation on “Prerequisites for the future of rail transport”, in which he made clear, above all, that there was a widespread assumption in the rail sector that this future is self-evident, although the conditions for preserving it and securing it against attempts to marginalise it can in no way be considered as assured. In connection with this, he referred in particular to the serious deficiencies in implementing the regulations of the European Union’s three so-called railway packages in its Member States, and to ongoing, actively driven attempts at circumvention. Representatives of the logistics branch of private railway undertakings in particular spoke similarly. They pointed out that the literal opening of the market that has been in force for a long while is being successfully torpedoed by counter-effective national measures.

In general, it was evident that there is still little knowledge of such circumstances that are damaging to the interests of the rail sector – and hence to an ecologically oriented, forward-looking transport policy – even in specialist circles. The natural corollary is that even stakeholders who are interested in positive developments know absolutely nothing about the urgent need for action that already exists.

Beyond this, the contributions describing the development of national railway policies in various European countries were also worthwhile, as well as the more legally oriented contributions on the INCOTERMS as the basis for the supply relationships in trade and transport, and the contributions on the question of dealing with the reservation of proprietary rights in the transport sector, and its effects.

As in previous years, the International Summer Academy again also provided the opportunity for intensive specialist discussions and for networking, which is also very important to those interested in the rail sector.
(Translation)

Hon. Prof. Dr. Kurt Spera – 80th birthday

On 5 August, Professor Kurt Spera celebrated his 80th birthday. He is especially important to OTIF, not just because he is *Conseiller honoraire* – an honorary title the Organisation awarded him in 1999 – but also because of his decades long dedication to the improvement of international co-operation in the rail sector. As an indefatigable researcher, dedicated teacher, noted specialist author, experienced negotiator, careful organiser and – last but not least – humorous person with integrity, he has earned esteem and respect throughout Europe and beyond. Even now at his advanced age, Dr Spera works with apparently unflagging energy on behalf of issues concerning the railways as an environmentally friendly, efficient and promising future guarantor to maintain and increase the mobility of passengers and goods.

His merits are manifold, his accolades numerous and his publications and speeches are still noteworthy for everybody who wants to or who has to work for the future of rail transport. A full appreciation and presentation of his career was published in the Bulletin in French and German in 1998. Even though a further 10 years full of activity for Dr Spera have passed since this last appreciation was published, this one is still just as valid. Dr Spera is still the head of *Logotrans*, he works with many institutions as an arbitrator in matters of extrajudicial legal findings, he is the scientific director of the Summer Academy in Sopron, which was also held in 2008, as well as a sought-after contact for all who deal with issues concerning international rail transport.

We should like to wish Dr Spera, who is still highly committed, open and intellectually on the ball, many years of good health and professional and private contentment so that as many people as possible can benefit from his extraordinary expert knowledge and get to know his impressive personal attributes.
(Translation)

Case Law

Rechtbank van Koophandel te Antwerpen

Ruling of 15 March 2002¹

1. **Where the consignee, at the time of delivery of the goods, enters reservations on the consignment note, and the experts consider that the damage occurred during the carriage, the CMR carrier shall be liable for the damage in accordance with Article 17, para. 1 of CMR². The CMR carrier may invoke a ground for relief from liability, even where he did not enter any reservations at the time of taking over the goods.**
2. **According to Article 8 of CMR, the carrier by road is not under an obligation to check the manner in which the goods are loaded (or stowed). He is only required to verify the apparent state of the goods at the moment when he takes them over³.**
3. **Bearing in mind that the CMR Convention does not indicate who is responsible for loading and unloading⁴, and that the driver stowed the goods using ropes after their loading by the consignor, liability pursuant to Article 17, para. 5 of CMR is shared between the carrier and the consignor where it is clearly necessary to examine the causes of damage in terms of the manner in which the goods were loaded and stowed⁵.**

Cf. Articles 8, 17 para. 1 and 5 of CMR

¹ No. A.R. 99/5551.

² Cf. Article 23 § 1 of CIM.

³ The carrier according to CIM is only required to examine the condition of the goods under the conditions prescribed in Article 11 § 3 (examination at the request of the consignor when he loads the goods).

⁴ In contrast to CMR, which does not contain any rules on the consignor's liability for defective loading or stowage, this is dealt with clearly in Article 13 § 2 of CIM in cases where the consignor loads the goods himself.

⁵ Cf. Provisions of Article 23 §§ 2 and 3 of CIM, which allow the carrier partial relief from his liability (cf. the words "to the extent that").

(From: European Transport Law No. 4-2002, p. 511 et seq. Text of the ruling in Dutch. Introductory paragraphs editorially amended)

Book Reviews

Andresen, Bernd/Valder, Hubert, *Speditions-, Fracht- und Lagerrecht* (The Law on Forwarding, Freight and Storage), transport law handbook with commentaries, ISBN 3 503 05904 0, supplement 2/08, as at May 2008, and supplement 3/2008, as at June 2008, Erich Schmidt Verlag, Berlin.

This loose-leaf volume, which was first published in 2000 (see Bulletin 4/2004, p. 111), contains the texts of regulations (acts, general conditions) concerning the law on forwarding, freight and storage and related commentaries. Up to now, the commentaries only covered the main provisions of the German Commercial Code (HGB). The volume also contains texts of international conventions that are applicable to the carriage of goods performed by different means of transport in international traffic, although up to now they have not been commented on.

In supplement 2/08, the authors begin with the commentary on the Convention on the Contract for the International Carriage of Goods (CMR). Supplements 2 and 3 contain explanations on Articles 1 to 7 and 8 to 16.

Parallels to the CIM UR are explicitly drawn in the introduction. In addition, with regard to questions concerning international rail transport, explanations can be referred to in every case where parallel provisions exist in CMR and CIM (e.g. application of the international Convention when only the place where the goods are taken over or only the place of delivery is in a contracting State; terms such as "goods", "place of taking over of the goods" and "place designated for delivery", "delivery", "circumstances preventing carriage", "circumstances preventing delivery"; liability of the carrier for his servants and any other persons whose services the carrier makes use of for the performance of the carriage). In addition, the comments concerning combined transport are of particular interest to railway specialists.

The explanations on the individual provisions of CMR are illustrated by means of numerous practical examples. In these explanations, not only German case law, but also French, Belgian and Austrian case law is taken into account.

Supplement 3/08 includes initial comments on the German General Conditions for Forwarders (ADSp) (preliminary remarks and Art.1).

The authors, who are practising lawyers, have made use of their experience in applying the provisions of transport law, thus producing this practice-based guide for lawyers working in this area. The supplements ensure that the volume is always kept up to date. The handbook is aimed at all practitioners and lawyers as an aid to their work, whether it be in undertakings, insurance companies, courts or associations.

(Translation)

regions, as it is not very propitious at the moment to be called “Gustav”. He could perhaps get round this difficulty by changing his name to the Swiss German dialect version, “Gusti” ...

As for the civil servants who will be sitting quietly and comfortably in their offices, they also have the advantage of being able to watch these devastating scenes of tornadoes and cyclones etc. on TV.

(Translation)

Last but not least

Echoes from the UN Sub-Committee of Experts on the Transport of Dangerous Goods

After a lengthy statement by one delegation, in the course of which it was admitted in particular that the competent authorities – in the absence of qualified experts – should be more competent, the representative of another delegation, as the competent authority of his country, joked that in order to be more competent, he would have to be better paid. He called upon the other delegations to lobby his Ministry accordingly, as at this session, he had had to chair several ad hoc working groups in the morning before the plenary session met, during the lunch breaks and even during the coffee breaks, in order to seek a compromise.

Once again, the now famous spoilsport (the story continues) made himself conspicuous. Arriving late at the beginning of the session owing to the flight timetable, he kept quiet until the documents concerning explosives had all been presented, given that he is not a recognised expert in this field, although he is not averse to making explosive statements. The Chairman had not noticed his absence. When he asked for the floor on the following item of the agenda, the Chairman remarked that he could not have imagined a session of the Sub-Committee without him. The spoilsport then asked the Chairman if his absence would have upset him, or whether if he had been absent, his presence would have been missed, in which case he would be much cheered...

With regard to tornadoes and cyclones etc., our Counsellor had the bad luck to be christened “Gustav”. As things stand, he would find it hard to get a visa or to get into the USA, Mexico, Cuba and other afflicted