



# OTIF



## Bulletin of International Carriage by Rail

**Intergovernmental Organisation  
for international Carriage  
by Rail**

# OTIF



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## Bulletin of International Carriage by Rail

### Summary

Quarterly publication  
of the OTIF

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for international Carriage  
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## Lists of lines 1999

### CIV List of railway lines

(published on 1 July 2006)

Chapter: "Georgia"

Georgia acceded to the Convention concerning International Carriage by Rail (COTIF) by depositing its instrument of accession on 21 July 2011. As the instrument of accession contains a reservation on the scope of application in accordance with Article 1 § 6 of CIV, a new Georgia chapter will be included in the CIV list of railway lines in accordance with Article 24 § 2 of COTIF. COTIF and hence the CIV Uniform Rules entered into force for Georgia on 1 Mai 2012 (see COTIF 1999, Art. 24 § 2).

Secretary General's circular No. 5 dated 28 February 2012 can be downloaded from the following website:

[www.otif.org/fileadmin/user\\_upload/otif\\_verlinkte\\_files/07\\_veroeff/06\\_liste\\_CIV/A\\_60-03\\_502\\_2012\\_28\\_02\\_2012\\_fde.pdf](http://www.otif.org/fileadmin/user_upload/otif_verlinkte_files/07_veroeff/06_liste_CIV/A_60-03_502_2012_28_02_2012_fde.pdf)

### CIM List of railway lines

(published on 1 July 2006)

Chapter: "Georgia"

As the instrument of accession contains also a reservation on the scope of application in accordance with Article 1 § 6 of CIM, a new Georgia chapter will be included in the CIM list of railway lines in accordance with Article 24 § 2 of COTIF. COTIF and hence the CIM Uniform Rules will enter into force for Georgia on 1 Mai 2012.

Secretary General's circular No. 8 dated 28 February 2012 can be downloaded from the following website:

[www.otif.org/fileadmin/user\\_upload/otif\\_verlinkte\\_files/07\\_veroeff/07\\_liste\\_CIM/A\\_70-03\\_501\\_2012\\_28\\_02\\_2012\\_fde.pdf](http://www.otif.org/fileadmin/user_upload/otif_verlinkte_files/07_veroeff/07_liste_CIM/A_70-03_501_2012_28_02_2012_fde.pdf)

*Samuel Flückiger* ■

## Official Communications concerning COTIF

### Accession to COTIF

Georgia

On 24 October 2011, the Government of Georgia made an application for accession to COTIF. In his capacity as Depository of the Convention, the Secretary General notified the Member States of OTIF of this application for accession (see Bulletin 4/2011). The period in which the Member States were able to lodge objections in accordance with Article 37 § 3 of COTIF expired on 2 February 2012. No objections were lodged.

This application for accession, which contains reservations in accordance with Article 28 § 3 (Arbitration) and the first sentence of Article 42 § 1 of COTIF relating to Appendices D, E, F and G, as well as reservations on the scope of application in accordance with Article 1 § 6 of CIV and CIM, is therefore accepted as legally binding.

In accordance with Article 37 § 3 of COTIF, the accession took effect on 1 May 2012. COTIF and its Appendices A (CIV), B (CIM) and C (RID) entered into force for Georgia on that date. Georgia is the 48<sup>th</sup> Member State of OTIF.

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 COTIF, including the reservations and declarations lodged by the Member States, and the texts thereof, can be found under:

[www.otif.org/en/publications.html](http://www.otif.org/en/publications.html)

*Eva Hammerschmiedová* ■



## Arabian peninsula

### GCC North-South axis

*An iron transport artery for growth and prosperity*

**Motivation** The boom in rail freight traffic in the Member States of Cooperation Council for the Arab States of the Gulf (GCC) is not due primarily to a broadening of awareness in terms of environmental policy. The soaring construction boom in railway infrastructure is motivated mainly by geostrategic and trade policy considerations.

In particular, the planned GCC Railway stretching more than 2200 km, which will connect Oman to Saudi Arabia via the United Arab Emirates, connecting also Qatar, Bahrain and Kuwait, will play a key role as a “crisis resistant” bypass for the Strait of Hormuz, the world’s most important transit bottleneck for oil and gas, for the Indian Ocean and for the Red Sea.

In view of the many tensions and the development of trade-inhibiting political risk factors in the Gulf of Oman, the Arabian Sea and the Gulf of Aden, the construction projects to develop rail freight traffic to create reliable goods transport by rail might appear to be long overdue. This is in a region which depends upon commodity trading like few others and which wishes to free itself from the almost total dependence on commodity exports and trade in a coordinated manner as a sort of regional economic integration organisation.

However, a key issue for the success of this project for “independence” in terms of freeing itself from the tensions with neighbouring countries and from the problem of piracy around the Horn of Africa is to establish reliable rail freight transport connections to Europe and Asia. These cannot bypass the OTIF Member States Jordan and Turkey, and above all Syria. For reasons of their own trading interests alone, the States that are members of the Gulf Cooperation Council cannot ignore either the international agitations or the political positioning in the “Syria case” which has been forced by the international community. In many respects, it is in the interests of the GCC that the political and social situation in the Middle East and towards Asia stabilises and becomes less tense on a permanent basis.

## Other Communications

### Cooperation Council for the Arab States of the Gulf

9<sup>th</sup> Meeting of the Financial and Technical Committee  
Abu Dhabi

After the accession of the Hashemite Kingdom of Jordan to OTIF in 2010, new geographical perspectives opened for the Organisation, with the focus turning towards the Kingdom of Saudi Arabia on Jordan’s southern border and towards the other Arabian Peninsula States, as Jordan’s other neighbours (Iraq, Syria) are already Member States of OTIF. Initialising and strengthening relevant contacts, observing the activities of other international organisations in the rail sector, and the selective analysis of public sources of information very quickly led to the information that the States on the Arabian Peninsula had already taken decisions of principle at the highest political level on setting up a rail network linking them together and the funding that would be necessary to achieve this. These States (Saudi Arabia, Bahrain, Qatar, Kuwait, United Arab Emirates and Oman) are affiliated to the Cooperation Council for the Arab States of the Gulf (GCC), which has its headquarters in Riyadh.

In order to broaden and strengthen OTIF’s knowledge of these developments and to make the Organisation known to the actors in the rail sector on the Arabian Peninsula, the Secretary General took part in two international conferences in May 2010 (Middle East Rail) and October 2011 (Transport and Railways) (Bulletin 2/2010, p. 48 and 4/2011). Ultimately, the talks he gave there and the correspondence contact subsequently initiated between OTIF and GCC led to an invitation to the Secretary General to take part in the 9<sup>th</sup> meeting of the GCC’s Financial and Technical Committee, which was held in Abu Dhabi on 27/28 March 2012. This was the first time a representative of OTIF had taken part in a meeting of a GCC organ itself.

This meeting of the Committee was dedicated to revising one of the basic documents for setting up the GCC railway network. The document is entitled “Guidelines for the implementation of the GCC railway network”, and will contain more than 100 pages setting out mandatory basic parameters for all participating States, particularly for the infrastructure, although some sections will also deal with the operation of the future



If the aim were to carry considerable quantities of raw materials internationally, this would require very good partnerships with all the transit and destination countries. The logistical organisation of a reliable supply chain in this case is considerably more elaborate and complicated than is the case for maritime transport. Enduring long waiting times for trains at "transit borders" and slotting in the smooth return transport of wagons and transport containers can in itself present insurmountable obstacles, resulting in losses.

What has still not been taken into account is whether the quantities expected can be dealt with at all. This means that the so-called "land bridge" on the Arabian Peninsula, which connects Jeddah with Riyadh, Jubal and Dammam and which will be linked to the North-South railway to the border with Jordan become more important for freight transport. The role the port of Jeddah could assume in the overall network of the Gulf region, at least for traffic in the direction of the Mediterranean through the Suez Canal, might possibly have to be re-assessed in future.

It is perhaps for reasons other than those connected with their own financial weight, for example factors outside the GCC that are hard to weigh up, that foreign involvement seems to be concentrated more at the level of engineering and technical planning services, rather than at the level of logistical and operational challenges.

**Excerpt from:**  
**OTIF NewsFlash no. 1 @ May 2012**

[www.otif.org/fileadmin/user\\_upload/otif\\_verlinkte\\_files/O8\\_Presse/Com\\_Presse/CP\\_2012/OTIFFlash\\_01\\_2012\\_e.pdf](http://www.otif.org/fileadmin/user_upload/otif_verlinkte_files/O8_Presse/Com_Presse/CP_2012/OTIFFlash_01_2012_e.pdf)

*Katja Bürkholz* ■

network. The network itself will be about 2,200 km in length and will link the GCC Member States to each other. It will also connect important raw materials storage facilities to the network and will ultimately link up with Jordan's rail network via the so-called North-South connection. The result of the GCC Member States' plans as far as the OTIF Secretariat is concerned is obviously the firm conviction that COTIF, which has proven its value over decades and is continuously being developed, provides the only complete legal regime which can enable such a network to operate reliably under stable general legal conditions.

The aims of the numerous contributions by the OTIF Secretariat and of the Secretary General's presentations and speeches were consequently to increase awareness of OTIF as an international governmental organisation and COTIF as a unique global legal regime, and to satisfy the huge need for information within GCC and its Member States.

During the meeting of the GCC Committee in Abu Dhabi, the Secretary General experienced the high level of expertise and decisiveness of the GCC Member States in successfully designing the organisational and technical planning conditions for operating the network, some important parts of which are already under construction. The working methods do not differ from those used in the OTIF organs; they are closely managed and focus mainly on the essential points.

When considering these developments on the Arabian Peninsula, it is important to know about the geostrategic, economic and social importance of the project for the region. For their imports and exports, the Member States of the Gulf Cooperation Council depend predominantly on the sea routes to their foreign trade partners. Free passage through the Strait of Hormuz plays a crucial role. But there are also risks from other threats to freedom and to further opportunities for developing sea transport (e.g. piracy in the Gulf of Aden and the Indian Ocean). In the light of this, setting up and operating a railway connection that will link these States together and ultimately lead to Europe and Asia via Jordan is of the utmost importance. It is clear that the States involved are giving this project full priority, as this is underlined by the fact that the funding needed for the project, some 120 billion dollars, has already been approved by the Heads of State and Government of the States concerned.

## References

### Andresen, Bernd / Valder, Hubert: *The Law on Forwarding, Freight and Storage*

*(transport law handbook with commentaries)*

This continually updated loose-leaf volume, which was first published in 2000, contains the provisions of freight transport law for various modes, including the law on forwarding and storage. For the time being, the rail transport law contained in the CIM Uniform Rules is only included in the text section. But in the commentaries, particularly those on the Convention on the Contract for the International Carriage of Goods by Road (CMR), railway lawyers will find many useful parallels with the CIM, and case law.

Supplement 2/11 contains revised commentaries on Articles 4-16 and 34-40 of the CMR. So far there is no commentary on Articles 17-33. Case law on the following topics, among others, has been taken into account: evidential value of the consignment note (proof of the contrary, for instance in the case where the consignor entered in the consignment note is not party to the contract of carriage), inspection of the external condition of the goods and their packaging, consignor's duties concerning "necessary" documents, right to dispose of the goods (instructions made by the consignor in the case of a missing consignment note) and substitute subcontracting carrier.

The bibliography has also been adapted and expanded. From the railway law perspective, there is some satisfaction in the fact that on the subject of the "consignee's obligation to pay upon delivery" (Art. 13 CMR) the rail sector has a solution in the CIM rules which avoids a problem that exists in connection with the application of CMR. In contrast to the CMR, which refers to the "charges shown to be due on the consignment note", Article 17 § 1 of CIM says "against payment of the amounts due according to the contract of carriage". As a result, the comments on CMR contain different views on what applies if a consignment note has not been issued, if the consignment note is invalid or if it does not set out any costs within the meaning of Article 13, para. 2 of CMR. The consignment note is also used as an evidential document in the rail sector with regard to the costs according to the contract of carriage, but this is not the only acceptable evidence (see also the Explanatory Notes under

[www.otif.org/en/publications/conventions/explanatory-report.html](http://www.otif.org/en/publications/conventions/explanatory-report.html), p. 123).

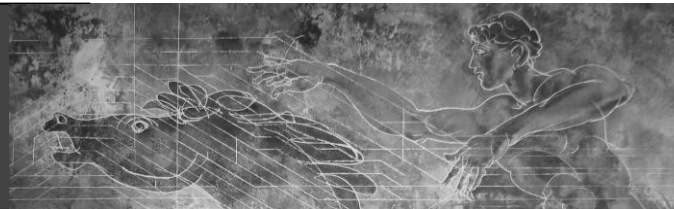


As early as the beginning of May, the Secretary General's discussions with the members of the GCC Committee resulted in an official request to OTIF from the Secretary General of the Gulf Cooperation Council for specific information on the Organisation, COTIF, possible forms of cooperation and ultimately the GCC Member States' membership of OTIF. By the time this edition of the Bulletin is published, the OTIF Secretariat will already have replied to this request.

Following the positive developments in membership in recent years, this development will mean for OTIF the prospect of close cooperation with the Gulf Cooperation Council and the accession of further Member States from the region. In accordance with its aims and tasks, OTIF is hence making a contribution to the economic development of States on the Arabian Peninsula and is securing its position as the leading international governmental organisation for rail transport in a markedly expanding geographical context.

Stefan Schimming ■





The authors, who are practising lawyers, have made use of their experience in applying the provisions of transport law and associated branches of law, thus producing this practice-based guide.

This handbook by Andresen and Valder provides answers to various questions that arise in practice. It helps users to understand better the legal relationships. It is therefore recommended as an extremely useful aid to all those who are confronted with matters in connection with forwarding, freight and storage legislation in their work.

(ISBN 978-3-503-05904-1, in German only  
Edition Erich Schmidt Verlag, Berlin,  
supplement 2/11, as at November 2011)

Eva Hammerschmiedová ■

### Publications & interesting links

*Bulletin des transports et de la logi-stique*, Paris, n° 3407/2012, p. 228-230 – Commissionnaires étrangères. Le « Spediteur » (F. Farhana)

*Idem*, n°3410/2012, p. 271/272 – Faute « grave » du transporteur. Effets sur la prescription (M. Tilche)

*Idem*, n°3416/2012, p. 370/371 – Transporteurs successifs. Droits et recours (M. Tilche) ; p. 378 CMR – Prescription de recours

*Idem*, n°3417/2012, p. 387/388 – Nombre de colis. Garantie de transporteur ? (M. Tilche)

*CIT-Info* (Comité international des transports ferroviaires / Internationales Eisenbahntransportkomitee / International Rail Transport Committee, CIT) [www.cit-rail.org](http://www.cit-rail.org), édition/Ausgabe/édition 2/2012

*European Transport Law / Droit européen des transports / Europäisches Transportrecht*, Antwerpen, No. 2/2012, p. 129-152 – Multimodal Transport Reform and the European Union: A Minimalist Approach (B. Marten)

*Transportrecht*, Hamburg, Nr. 3/2012, S. 85-91 – Probleme bei der Ablieferung des Frachtguts (K.-H. Thume)

*Idem*, Nr. 4/2012, S. 134-147 – The New Spanish Law on the Contract for the Carriage of Goods by Land: it is never too late for doing things properly (M. Alba)

Eva Hammerschmiedová ■

## Case Law

### Court of Cassation of Belgium

Ruling of 27 May 2011

(No. C. 09.0618.N-C.09.0620.N/1)

(Source: European Transport Law No. 1-2012, p. 83-86)

Value of lost goods

#### Guiding Principle

If goods are carried free from excise duties, taxes such as import duties, value added tax and excise do not count towards the market price of the goods at the time the carrier takes over the goods. Therefore, these taxes, which are still outstanding due to the loss of the goods, are not part of the value of the lost goods within the meaning of Article 23, paras. 1 and 2 of CMR.

#### Comments

A provision similar to Article 23, paras. 1 and 2 of CMR can be found in Article 30 § 1 of CIM. The German case law relating to CIM 1980 published in Bulletin 1/2001 provides a comparison (Superior Court of Justice Berlin, ruling of 11.8.2000):

"In the case of the theft of cigarettes during carriage, the payment of compensation in accordance with Article 40 § 1 of CIM (1980) only covers the value of the goods, but not the tax on tobacco products. The tax on tobacco products is also not included in the obligation to refund costs in accordance with Article 40 § 3 of CIM."

With regard to the value of goods on which the amount of compensation is to be based, both courts are of the same legal opinion. However, there are varying opinions in different COTIF Member States on the question of whether the tobacco tax or excise duties in general are refundable in the context of "other sums paid in relation to the carriage of the goods lost" (Art. 30 § 4 of CIM). In this respect, see comments on the website:

[www.otif.org/en/law/case-law.html](http://www.otif.org/en/law/case-law.html)

see Compensation for loss of the goods – the issue of excise duties

Eva Hammerschmiedová ■



## **Monique Gaillard**

*With enormous pain  
and deepest sadness, we  
were constraint to let go of our dear colleague,*

*Mrs Monique Gaillard*

*and let her leave us behind  
as she had to follow her ultimate path  
on her very own.*

*Her desk calendar is frozen  
at 15 December 2011  
She won't be coming back,*

*Until yesterday, 2 July 2012, she struggled.  
Now, the pain is over.*

*For decades, her valuable contribution  
made it possible that you,  
dear readers, were able to receive  
your copies of the Bulletin of International  
Carriage by Rail.*

*OTIF will always think of her  
in grateful remembrance.*

*With unending sadness, your OTIF Secretariat*

*Berne, 3 July 2012*