



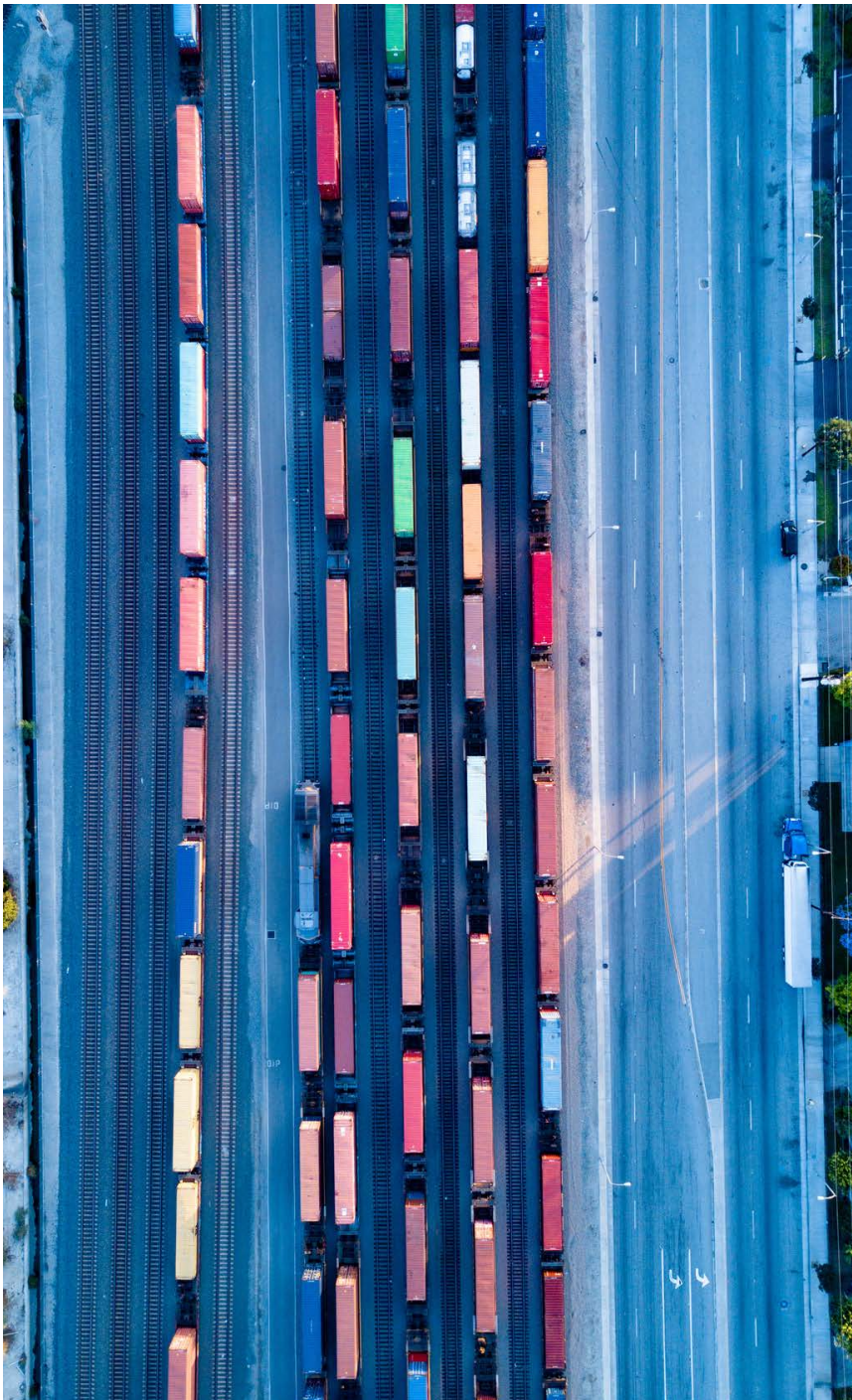
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OTIF

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

Unified railway law to connect Europe, Asia and Africa



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The Secretariat is continuing to develop its partnerships. It is noteworthy that rail transport is becoming increasingly important in terms of the services to be put in place between Europe and Asia. This is obviously due to the advantages inherent in this mode of transport: speed and low emissions. It is also due to the gradual development of renewable energies, which is now gathering pace.

Solar and wind energy are occupying an increasing share of the energy mix. In order to meet the objectives of COP21, a new structure for energy networks will need to be developed, with decentralised production – intermittent by nature – and a flexible transport network. The new Silk Route can be viewed through this prism. Not only will the transport network itself have to be built, but also its electricity supply on the basis of renewable resources.

This is a considerable challenge.

In its role dealing with common rules for rail transport, OTIF will need to anticipate these developments. Firstly, we will continue our efforts to ensure that our rail contracts are compatible with those of OSJD, thanks in particular to the common CIM/SMGS consignment note. Secondly, we believe it is essential to make rail transport interfaces as practical and effective as possible, not just with the other transport modes, but also with other essential components, such as customs and data exchange, etc.

The article in this Bulletin dealing with the project to transport parcels between Europe and Asia provides both a specific example and a proposed method to tackle the question of interfaces.

François Davenne

A CELEBRATION OF COOPERATION

This year, the United Nations Economic Commission for Europe (UNECE) is celebrating its 70th anniversary, and it was with great pleasure that OTIF and its Secretariat joined in with the celebrations that took place on 21 February 2017 for the 70th year of the Inland Transport Committee (ITC).

In 1962, when the Central Office for International Carriage by Rail – now OTIF – celebrated its 70th anniversary, Mr P. Le Vert, the then Director of the UNECE Transport Division, paid tribute to “the efficient and close cooperation between the staff of the two organisations”.

Now, in 2017, it was OTIF’s turn to be involved with the anniversary of the ITC, so it suggested lending out its archives for the exhibition tracing the

history of the ITC.

Some fifteen archive documents belonging to OTIF were thus exhibited in the “Salle des Pas Perdus” at the United Nations’ headquarters in Geneva.

The documents described the cooperation between the two organisations, for example how, before the ITC was created, OTIF shared its experience of the rail mode, which already had an international structure. As a result, the UNECE used this as a basis to innovate and structure the road mode with success.

Later, in the transport of dangerous goods field, cooperation was strengthened with the Joint Meeting; the Transport Division became part of the multimodal framework.



Thanks to the UNECE’s linguistic work, the Russian translation of RID based on the Russian version of ADR helped bring about compatibility between SMGS Annex 2 (OSJD) and RID (OTIF).

The OTIF Secretariat welcomes this exhibition, which illustrated the origins of the close cooperation that now exists between the two organisations.



REWARDING EXPERIENCE

I was honoured to be selected for OTIF's training programme as a representative of the Republic of Serbia. I am very pleased that this internship programme has been organised at a time when Serbia is chairing OTIF's Administrative Committee. This chairmanship means that other Member States recognise the commitment and dedication of my country and my colleagues from the Directorate to the idea of harmonising international railway regulations.

I have a Master's degree in economics and I am employed at the Serbian Directorate for Railways. I work as an advisor on finance and regulatory affairs and international cooperation.

I spent three wonderful months as an intern in OTIF's technical interoperability department.

I was given a chance to be part of this amazing team of experts led by Bas Leermakers, with whose help I obtained a broad picture of railway processes and the knowledge required to apply COTIF correctly. I should like to thank him for his patience in imparting his extraordinary knowledge to me, as well as for the fact that he supported all my professional initiatives.

During this programme, I had the opportunity to go through the whole cycle of organising a meeting of OTIF (31st WG TECH in Rome), which started with the preparation of the working materials and ended with sending participants at

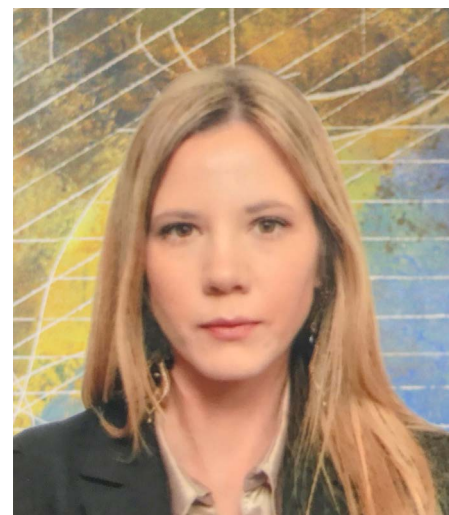
the meeting the draft minutes.

Although Serbia is currently in the EU pre-accession process and is harmonising its legislation with EU directives, my country places great importance on its membership of OTIF, as all its international railway transport is organised in accordance with COTIF.

Due to COTIF's significance to the Republic of Serbia, it is of the utmost importance that it understands and correctly implements COTIF in practice; this internship should certainly contribute to such understanding and correct implementation.

The knowledge I obtained whilst working in the OTIF Secretariat can be applied to my regular business activities, and it will certainly be used to promote OTIF in my country by organising a future WG TECH meeting in Belgrade. Furthermore, new experience gained at OTIF could help to improve the Directorate for Railways' internal procedure, for example knowledge management, which obviously had a positive impact on the OTIF Secretariat.

In addition to my professional development, which is indeed undeniable, it is important to mention that my personal development was also furthered during this programme. I have seen how an international organisation impacts the legislation of 50 different countries, which has left a great impression on me. Everything was new to me - from



colleagues and the host state to topics and tasks that I encountered. It was an excellent opportunity to improve my language skills, to become familiar with other cultures and with different working methods in general. All my colleagues in the OTIF Secretariat, and not just those in the technical department, were very open to cooperation and tried to provide me with answers to all the questions I had.

I would like to thank all of them for what they did to make me feel more than welcome, thus creating an unforgettable experience that I will remember all my life.

I hope that this is just the beginning of our extraordinary and efficient cooperation.

Jana Cirković

AMENDMENT OF THE PROCEDURE FOR REVISING COTIF

A new working group to amend the procedure for revising COTIF met in Berne on 3 May 2017.

Around twenty delegates attended, including representatives from Austria, France, Germany, Greece, Hungary, Luxembourg, the Netherlands, Poland, Romania, Serbia, Spain and Switzerland. Also present were representatives of the European Commission and the Universal Postal Union (UPU) and representatives of the European Rail Infrastructure Managers' association (EIM) and the International

Union of Combined Road-Rail Transport Companies (UIRR).

The working group's principal focus was the entry into force of amendments to COTIF and certain Articles in the COTIF Appendices which are subject to a particularly long and complex entry into force procedure. Based on a very comprehensive study by Mrs Brölmann of the University of Amsterdam's Department of international and European public law, the working group examined in detail a number of proposals to speed up the rate of

change of COTIF to bring it into line with the sector's requirements.

The Secretariat would like to thank Mrs Brölmann very much for coming to the meeting and for the quality of her contribution to the working group. It would also like to thank Mr Filho, the Director of the Legal Affairs Department, who explained very clearly the solutions developed by the Universal Postal Union on similar issues.

François Davenne



THE ECONOMIC COOPERATION ORGANIZATION IN BAKU

On 17 and 18 April, the Economic Cooperation Organization (ECO), together with the Railways of Azerbaijan (CJSC), organised the 13th meeting of the “Heads of Railway Authorities of ECO Member States” in Baku. The majority of the ECO Member States’ railway undertakings and authorities took part. Among ECO’s Member States are Afghanistan, Azerbaijan, Iran, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkey, Turkmenistan and Uzbekistan.

Mr Kuzmenko, the head of the legal department, travelled to Baku to represent OTIF. The United Nations Economic Commission for Europe (UNECE), the Economic and Social Commission for Asia and the Pacific (UNESCAP) and the Islamic Development Bank also attended as observers.

At the meeting, Mr Kuzmenko had the opportunity to present OTIF’s latest news in terms of connecting Europe, Asia and Africa.

A delegation from China had been specially invited. It gave a presentation on the latest projects and plans for the

rail sector. The ECO Member States were very interested in the projects that were presented, the aim of which is to connect Europe and Asia. Following the presentations, there was an exchange of views and a discussion.



THE HIGH SPEED LINE FROM CASABLANCA TO TANGIER: AN INTERNATIONAL SEMINAR FOR A MAJOR PROJECT

The Secretary General of OTIF, Mr Davenne, travelled to Morocco to speak at the 6th session of the International Seminar on Safety and Security.

The event, which was organised by the National Office of Railways (ONCF) and the International Union of Railways (UIC) under the patronage of His Majesty, the King of Morocco, Moham-

med VI, was held from 19 to 21 April 2017 in Tangier.

This 6th session, entitled “The high speed rail system: the challenges of safer operation”, gave 200 participants the opportunity to discuss their experiences and good practice in terms of high speed systems.

Morocco, which has been a Member

State of OTIF since 1965, has the longest and most heavily used railway network in Africa. It will be the first country to operate a high speed line in Africa.

Against this background, Mr Davenne recalled the safety advantages provided by the Convention concerning International Carriage by Rail (COTIF), particularly the Appendices on technical interoperability (ATMF and APTU). He also underlined the value of the CIM Appendix for freight in the context of developing intermodal rail-sea traffic, particularly between the major Moroccan ports, such as Tangier, and ports in Europe.

He issued a strong invitation to experts from Morocco and Tunisia to take part in OTIF’s Committee of Technical Experts and in the work on the new Appendix dealing with interoperability beyond the European Union.



INTERNATIONAL CAREER DAY 2017

For the first time, OTIF took part in the 14th International Career Day organised by the Federal Department of Foreign Affairs. This event, initially launched in Lausanne, was held in Bern this time due to the 15th anniversary of Switzerland's accession to the United Nations, the aim being to attract more German speaking students. The day was intended for new graduates and young academics with work experience who are considering a career in an international organisation.

At the invitation of the FDFA, OTIF was among 60 international organisations that participated and presented their organisation and career opportunities. Over 1,100 visitors attended.

The head of the Administration and Finance Department, Ghousébasha Gaffar and HR assistant, Ruth Waber, manned the OTIF stand.

The event was very successful, not only in terms of the 65 direct discussions with motivated young academics, but also in terms of promoting OTIF and meeting HR specialists from other organisations. The discussions with visitors to the event included questions such as "what is OTIF?" and some very interesting and promising conversations with potential candidates for the provisional vacancy. The focus was on an open approach and becoming involved in detailed discussions with visitors, many of whom will



now be more aware of what OTIF is and what it does.

Ghousébasha Gaffar and Ruth Waber

RESULTS OF THE RID-ATMF WORKING GROUP

Railway transport is generally very safe, so if dangerous goods need to be transported, rail transport is a good choice. The general rail vehicle provisions to allow safe transport are contained in ATPU and ATMF. For the transport of certain very dangerous goods, these general provisions may not be sufficient and additional vehicle-related measures are prescribed by RID to prevent or mitigate the effects of derailments or collisions. A working group has been finding ways to ensure that the vehicle-related provisions of RID are aligned with ATPU and ATMF and that conformity assessment of these provisions will be as efficient as possible.

What are the findings and what is about to change?

Based on a study carried out in March 2013, which analysed the interactions and consistency between railway and dangerous goods legislation, the EU Commission's DG MOVE and the OTIF Secretariat set up a working group, entitled the "RID-ATMF working group", to study possible inconsistencies between RID and the general railway legislation. The group had a well-balanced composition of experts in both fields of law. The chair of the RID Committee of Experts and the chair of the Committee of Technical Experts (CTE) both participated as members in the working group.

The RID-ATMF working group was co-chaired by the United Kingdom and the Netherlands and met three times in Bern during 2016 and once in Brussels in February 2017. At the final meeting the group agreed upon the concluding report, which is publicly available on OTIF's website in three languages (as a working document for the 10th session of the CTE).

The RID-ATMF working group recognised that the overall coordination process between dangerous goods legislation and general railway legislation is complex and involves different working groups and decision-making committees. RID is harmonised with

other modes of transport through the UN Model Regulations in order to ensure the intermodality of dangerous goods transport. At the same time, ATPU and ATMF are harmonised with EU railway legislation in order to ensure that railway traffic is interoperable.

Despite the complex context of both areas of law, the RID Committee of Experts and the CTE need to cooperate so as to ensure that the objectives of both areas of law continue to be met. Currently, there is no formal coordination mechanism between the RID Committee and CTE.

The RID-ATMF working group recommended setting up a 'Joint Coordinating Group of Experts' (JCGE) to coordinate the current and future regulatory alignments and implement the conclusions of the RID-ATMF working group.

The working group agreed that it was necessary to discuss the vehicle aspects in both RID and the TSIs/UTPs as a priority. RID currently contains a number of requirements concerning vehicles. In view of this, the group was of the opinion that an improved coordination process should enable the "protective aims" of vehicle-related requirements to be maintained in RID, whereas technical specifications

The aims of RID and ATPU/ATMF

RID sets out provisions for the safe, secure and efficient transport of dangerous goods by rail and ensures that RID consignments are accepted between rail contracting parties and across the modes of transport with which RID is harmonised. To this end, the RID Committee adapts the harmonised provisions established by the UNECE/OTIF Joint Meeting for road, rail and inland waterways for the COTIF and UNECE region in international traffic.

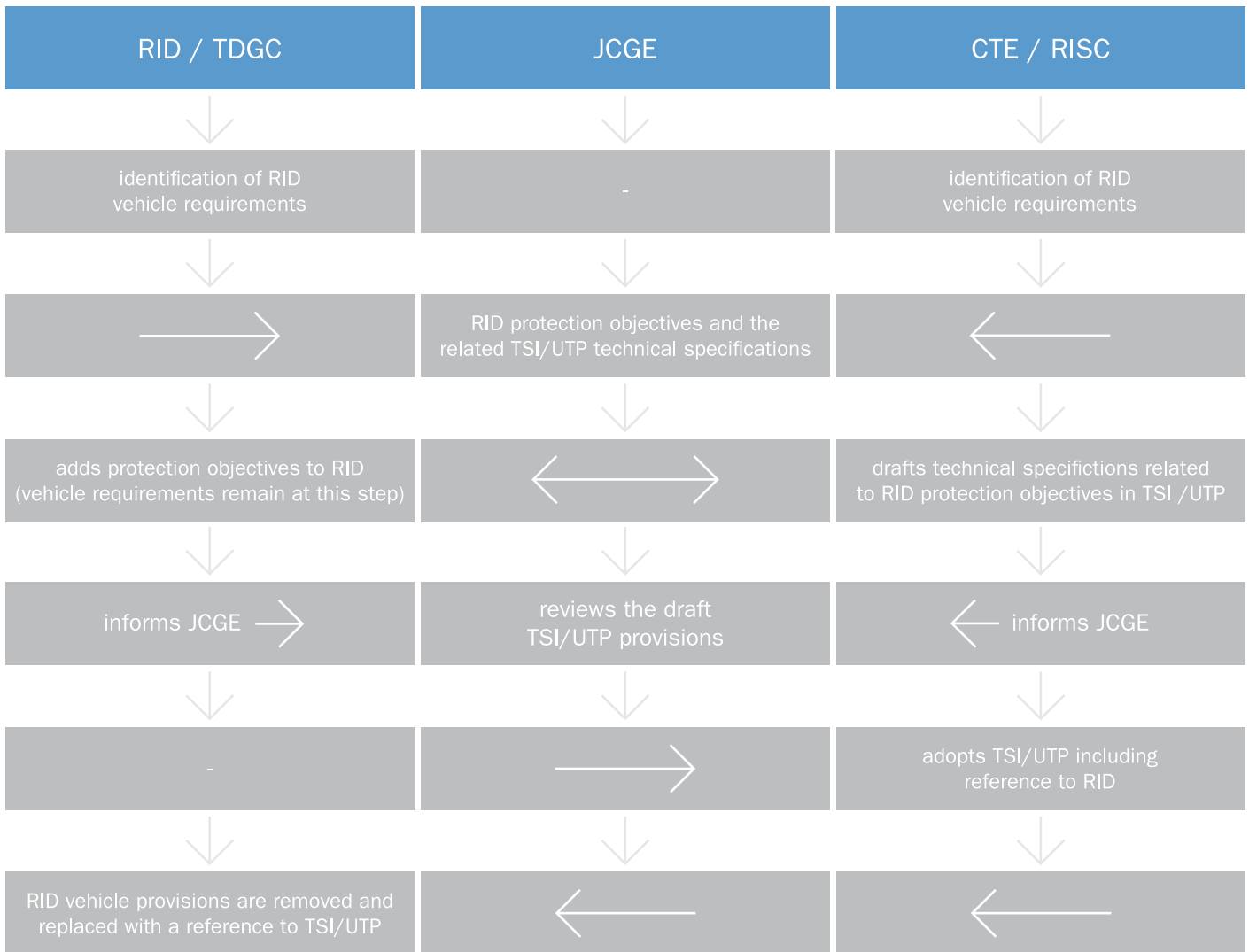
Most structural requirements regarding tank-wagons concern the tanks; however additional protection at the level of the vehicle is imposed by RID for the safe transport of certain particularly dangerous substances in order to protect the tank.

The general railway legislation, i.e. ATPU/APTU of COTIF, sets out rules for the approval and use of rail vehicles in international traffic. The technical provisions for rail vehicles and their use are set out in UTPs, which are decided by the Committee of Technical Experts (CTE).

These provisions must be consistent and assessable and, where possible, they must not prescribe exclusive technical solutions, so as to allow innovation.

In practice, most of the UTP provisions decided by CTE transpose requirements for EU railways set out in TSIs.

should be formulated in TSIs/UTPs. A specific 6-step process was developed for this purpose. The following diagram shows a simplified summary of this process.



In 2017, the conclusions of the RID-ATMF working group should be submitted to the four committees in-

involved (at OTIF level the CTE and the RID Committee of Experts and at EU level RISC and TDG). Following their

endorsement, the JCGE will be established and the 6-step process will be started.

Bas Leermakers



THE NATIONAL VEHICLE REGISTER (NVR) - ONE OF THE PREREQUISITES FOR INTERNATIONAL TRAFFIC: THE NVR TODAY AND TOMORROW

How can State authorities and railway undertakings obtain information on the basic data for each vehicle in international traffic? Is the vehicle admitted to operate in a particular State? Who is the ECM? Who is the keeper? Are there restrictions on the vehicle's use?

All rail vehicles admitted to operation must be registered in the NVR. The exchange of data on rail vehicles is enabled through the Virtual Vehicle Register (VVR). Now that the EU has started developing the European Vehicle Register (EVR), which affects the VVR, the question is what the consequences are for OTIF?

The purpose of vehicle registers

The national vehicle registers are established with a view to providing access to key information regarding each railway vehicle operated internationally between OTIF Contracting States. Before the vehicle is going to be used for the first time, it needs to be admitted to operation (authorised) in accordance with ATMF by the Competent Authority of the OTIF Contracting State. When admitted, the vehicle must subsequently be registered in the National Vehicle Register (NVR) of the State which admitted it. Additional admissions for other States are also recorded in the register of the State which made the original entry¹.

Besides new vehicles, existing vehicles that had in the past been admitted to operation, e.g. in accordance with the RIC and RIV technical requirements², must also be registered in the NVR. Depending on their national legislation, Contracting States may also include in the NVR vehicles admitted for national traffic only.

The NVR specification and the ECVVR

In accordance with the requirements

of Article 13 ATMF, each Contracting State is obliged to establish and implement the national railway vehicle register. Equivalent provisions are also stipulated in EU law under Commission Decision 2007/756/EC of 9 November 2007 on adopting a common specification of the national vehicle register (the NVR Decision) and its related amendments³.

In order for users to see the data of all NVRs from one access point, all NVRs should be connected to the Virtual Vehicle Register (VVR), i.e. a central search engine developed and hosted by the EU Agency for Railways (ERA). The combined NVRs and the VVR create what is referred to as the European Centralised Virtual Vehicle Register (ECVVR). In practical terms, information on every vehicle admitted to international traffic is available through the ECVVR to users of registers (RU, keepers, ECM, IM and national authorities). This is important, since in international rail traffic, especially freight traffic, vehicles are frequently exchanged between RUs, and each RU operating the vehicle must have access to the registered information.

In view of the rapid digitalisation of railways, correct registration is becoming

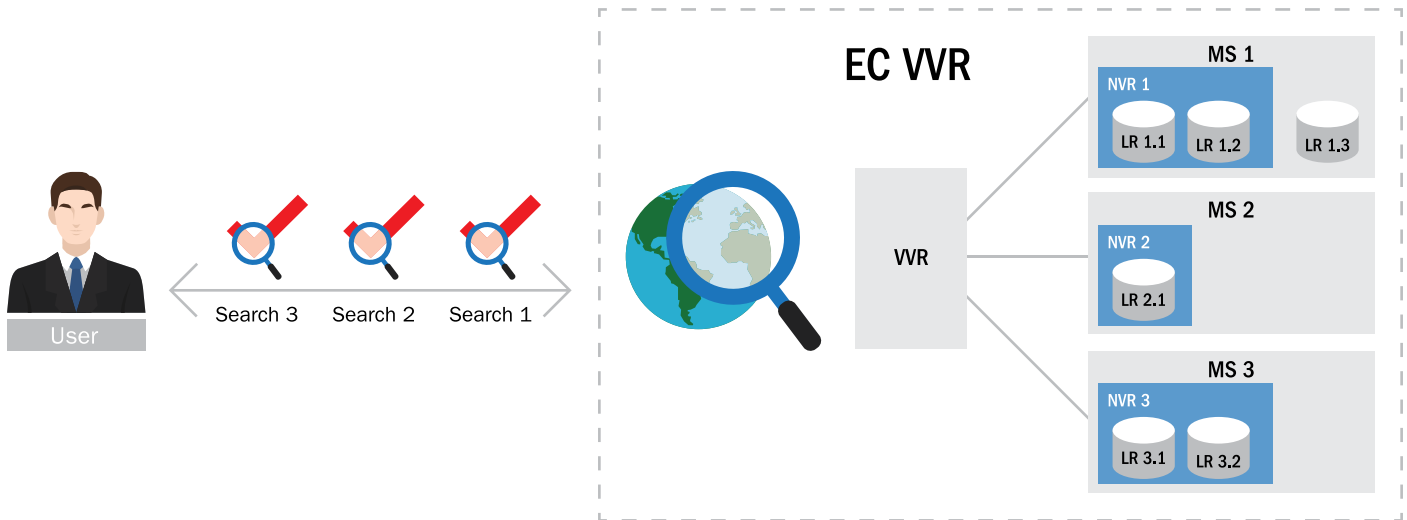
increasingly important. Unfortunately, some OTIF Contracting States have still not fulfilled their obligation of establishing their NVR and connecting it to the ECVVR. They should have established their NVR by 1 September 2013 at the latest and connected it to the ECVVR by 1 December 2013 at the latest. International traffic with vehicles coming from these States may become increasingly difficult or even impossible. If a vehicle is not registered in an NVR, its data cannot be checked and it could therefore be excluded from international transport either by a railway undertaking or by a national authority. States that have not yet established their NVR can contact the Secretariat to obtain assistance with the specifications and information on useful contacts who may be able to help.

¹ The relevant information is written in data field 11 of the NVR 2015

² i.e. "technical solutions" as defined among the rail companies through the UIC

³ Commission Decision 2007/756/EC of 9 November 2007 on adopting a common specification of the national vehicle register provided for under Articles 14 (4) and (5) of Directives 96/48/EC and 2001/16/EC (NVR Decision), as last amended by Commission Decision 2012/757/EU of 14 November 2012.

Figure 1: LR = local register; NVR = national vehicle register; VVR = virtual vehicle register



Content of the NVR

The following vehicle information is included in the NVR: identification of the States where the vehicle has been authorised and authorising Competent Authority, status of the authorisation data (valid, suspended or withdrawn certificates) and possible reference to declarations of verification, identification of the owner and the keeper of the vehicle, restrictions related to the construction (e.g. gauge, axle load), who the ECM is and exchange data for maintenance and operation with this ECM.

States may choose whether to use a standard NVR or establish a tailor made NVR. The former can be obtained from ERA. The latter must be developed by the State concerned, based on its specific needs. For example, the Swiss NVR, which is tailor made, also contains vehicles which do not run on main lines, such as narrow gauge vehicles, trams and rack railway vehicles. States that develop their own tailor made NVR must also ensure that it has a working connection to the ECVVR.

The registration process

Before the vehicle is used for the first time, and after the vehicle in question receives the Certificate of Operation issued by the Competent Authority, the keeper submits a request to the Registration Entity, which in most cases is also the Competent Authority⁴, to register the vehicle in the NVR. Based on the keeper's request⁵, the Registration Entity assigns a Unique Vehicle Number (EVN) in accordance with UTP MARKING 2015 and subsequently registers the vehicle in the NVR. It is often the case that the vehicle number is reserved in advance, during the certification process. As the last step, the keeper marks the vehicle with the assigned EVN, which completes the process of technical admission to operation of the railway vehicle.

If one or more registration items in the NVR are modified (change of ECM, keeper, status of authorisation data, etc.), the keeper should immediately inform the Registration Entity of these modification(s). Based on this provision of information, the Registration Entity must take reasonable steps to

ensure the accuracy of the data it enters in the NVR.

The future European Vehicle Register

In accordance with the EU's fourth railway package, the role of ERA will be enhanced. Among other things, ERA will act as a "one stop shop" for international vehicle authorisations. In the fourth railway package, the EU has also decided to create a single EVR and to have it operational by 16 June 2021. ERA will register vehicles it has authorised in the EVR. A single register would facilitate the work of those using the registers and reduce administrative burdens and costs for the MS. In order to implement the EVR, the EC has asked ERA to set up a specific working party to develop technical and functional specifications, accompanied by a relevant cost-benefit analysis. This would enable the incorporation of the NVRs, with a view to providing all users with a harmonised interface for the registration of vehicles and data management.

⁴ Or the National Safety Authority (NSA) in the EU

⁵ The Certificate of Operation relates to the vehicle and the keeper is the entity which holds this certificate. When the right of disposal over the vehicle changes, the certificate originally issued to the applicant must be handed over.

The OTIF Secretariat's participation in the EVR Project

As the EVR project could potentially affect the existing connections between the NVRs of the non-EU OTIF MS and those of the EU States, particularly the functioning of the ECVVR, the OTIF Secretariat is closely monitoring the work of the ERA WP on EVR.

Following its interventions and feedback it has received in the ERA WP, the OTIF Secretariat is confident that the interests of non-EU States will be duly taken into account, in particular by:

- Maintaining compatibility of the EVR with the individual connected NVRs of the non-EU OTIF MS.
- Limiting use of the NVR to administrative (not operational) purposes linked solely to the responsibilities of the authorities.
- Taking into account the input from non-EU OTIF MS in the process for assigning new restriction codes.
- Clarifying how vehicle registrations can be transferred from one State's vehicle registers to another State's vehicle register.
- The anticipated updating of the joint OTIF/EU guides (e.g. applica-

tion guide for VKM register).

The OTIF Secretariat will continue to monitor the latest developments on this topic. It will work together with ERA to develop solutions that facilitate international traffic, bearing in mind the interests of the non-EU OTIF MS and representing them in this process.

Dragan Nešić

RID/ADR/ADN JOINT MEETING (BERN, 13 TO 17 MARCH 2017)

The spring session of the Joint Meeting of the RID Committee of Experts and the UNECE Working Party on the Transport of Dangerous Goods was held from 12 to 17 March 2017 in Bern. The meeting was chaired by Mr Claude Pfauvadel (France). 22 States, the European Union, the European Union Agency for Railways, the Organization for Cooperation of Railways (OSJD) and 16 non-governmental organisations were represented at this meeting. The Democratic Republic of Congo took part as an observer.

Tanks

Diameter of shell

To calculate the wall thickness of tanks built of materials other than mild steel, 6.8.2.1.18 and 6.8.2.1.19 provide a formula which uses, among other things, the minimum shell wall thickness prescribed when using mild steel. This minimum wall thickness in turn depends on the diameter of the tank.

In order to make clear that this diameter means the internal diameter and not the external diameter of the shell, a definition was included in 1.2.1. This definition might also be useful for portable tanks of Chapter 6.7, but would have to be adopted by the UN Sub-Committee of Experts in this case.

Prevention of water ingress in safety valves

At the last Joint Meeting, the prob-

lem of water collecting in some types of safety valves was discussed (see Bulletin 4/2016, page 10). If the water freezes, the safety valve may not operate properly. The European Industrial Gases Association (EIGA) had been asked to check whether the protective caps required can interfere with the operation of the safety valves.

As a result, the wording of the new provision in 6.8.3.2.9 adopted at the last meeting was amended again. It now specifies that the factor of water collecting in the valve should already be taken into account at the safety valve design stage. As the industry was also of the view that the transitional period adopted at the last meeting was too short to adapt the existing equipment on tanks, it was extended by another two years.

The third meeting of the 2016/2017 biennium dealt with amendments to the provisions of RID/ADR/ADN intended to enter into force on 1 January 2019. A working group on tanks was again set up to deal with the numerous documents relating to tanks. This group met in parallel to the plenary and was chaired by Mr Arne Bale (United Kingdom). The plenary meeting dealt with various questions of interpretation, the results of informal working groups it had set up and other proposals for amendments. This meeting also adopted corrections to the 2017 edition resulting from corrections to the UN Recommendations on the Transport of Dangerous Goods.

Inspection of weld seams

The 2017 editions of RID and ADR specify the sections in which weld seams have to be inspected using non-destructive testing, and to what extent. However, subsequent discussions have shown that in the provisions for non-destructive testing, the attachment of the ends to the cylindrical part of the shell, which is a typical construction of gravity discharge tanks, was not taken into account. These lap joints cannot be correctly assessed using radiography or ultrasound testing. Although dye penetration testing is used as an alternative test method in these cases, this is not currently provided for in the regulations.

The Joint Meeting agreed to include a footnote to take account of this typical construction of gravity discharge tanks. It also agreed to extend non-destructive testing to all weld seams in the knuckle area of the tank ends.

Tanks with a section including a concave part

At the Joint Meeting in spring 2015, there was a discussion on certain tank

Tank semi-trailer



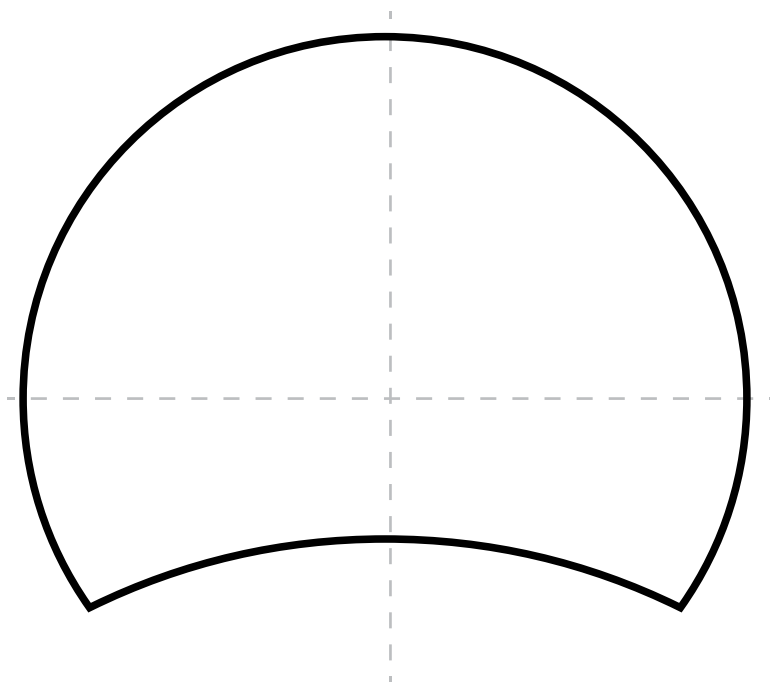
design types which have mainly a cylindrical cross-section, but which are made smaller by a concave section in the lower part (see picture). The purpose of this design is to leave room underneath for the semi-trailer tractor unit. Since 1989, more than 2000 of this tank model have been built.

The tank working group participants again discussed this special design, which is not mentioned in Chapter 6.8, which in principle assumes circular, elliptical or box-type cross-sections for tanks. One interpretation was that the tank cross-section is mostly cylindrical, but part of it was cut out. Another interpretation was that be-

cause of the part that was cut out, the tank cross-section can no longer be considered as cylindrical. However, for non-circular tanks, RID/ADR provides for radii of convexity.

Irrespective of these different interpretations, the tank working group was nevertheless of the view that these tanks are safe and should be allowed in RID/ADR. The cylindrical, elliptical and box-shaped cross-sections referred to in the provisions should simply be considered as examples in order not to hinder technical developments.

The Joint Meeting will return to this issue at a later date.



Identification of the state where a type approval was granted

The design type approval certificate for a tank-wagon or tank-vehicle has to include the approval number for the design type. Approval certificates for tank-containers also have to indicate the state in which approval was granted. This means there is an inconsistency both within Chapter 6.8 and with the other Chapters of Part 6, in which information on the state is always required in the design type approval. Indicating the state makes it easier for inspection bodies and competent authorities to get in touch with the authority that has issued the design type approval.

The Joint Meeting decided provisionally to require that the state be indicated in the design type approval for all tanks of Chapter 6.8. A transitional provision was envisaged for existing design type approvals.

Interpretation of RID/ADR/ADN

Recognition of training certificates for dangerous goods safety advisers

RID/ADR/ADN 1.8.3, which deals with the qualifications and tasks of dangerous goods safety advisers, says that the training certificate for dangerous goods safety advisers must be recognised by all RID Contracting States and all ADR and ADN Contracting Parties.

Directive 2008/68/EC on the inland carriage of dangerous goods also makes RID/ADR/ADN applicable to domestic transport in the EU Member States. The annexes to this Directive stipulate that RID, ADR or ADN must be applied, with the words “Contracting Party/Contracting State” being replaced, where necessary, by the words “(EU) Member State”.

In some EU Member States, the text of the EU Directive is interpreted in the scope of national laws or regulations to the effect that, for national or intra-community dangerous goods transport, only those training certificates issued in an EU Member State are recognised, and that the RID/ADR/ADN rule, whereby training certificates of all the other Contracting States must be recognised, only applies to transport with third countries. The Joint Meeting established that irrespective of whether it is an RID/ADR/ADN Contracting Party, each State is free to decide whether it will accept or refuse certificates issued in other States for inland transport,

because from the legal point of view, inland transport is not subject to RID, ADR or ADN. The Joint Meeting did not feel that it had the competence to give an opinion on the further-reaching question of the interpretation of European Union law in terms of the extent to which the Member States may only recognise training certificates from the EU Member States for inland transport.

The European Commission’s legal service was asked to check whether, according to Directive 2008/68/EC, dangerous goods safety advisers from third countries have to be recognised. Depending on the results of this verification, other parts of RID/ADR/ADN might be affected, e.g. the ADR training certificate for drivers or all types of approvals provided for in RID/ADR/ADN that are issued by a Contracting State.

Work of informal working groups

Working group on reducing the risk of a BLEVE

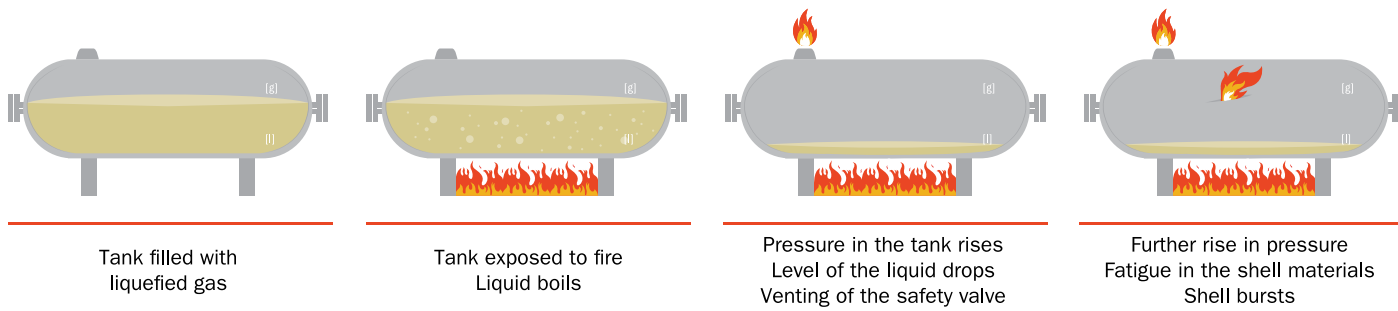
In a presentation of the work carried out by the French Institut National de l’Environnement Industriel et des Risques (INERIS – National Institute for Environmental Technology and Risks) in the framework of the informal working group on reducing the risk of a BLEVE (boiling liquid expanding vapour explosion) during the carriage of dangerous goods, the Joint Meeting was informed of the results of this work.

The particular issue here is to develop a model to predict the behaviour of liquefied gas tanks with different tank geometries and with different fire protective coatings, depending on whether they are equipped with safety valves only, with a protective fire coating only or with safety valves and a protective coating. The results achieved are consistent with those of the tests carried out on tanks by Germany’s Federal Institute of Materials Research and Testing (BAM) in 1998, 2013 and 2014.

The advantage of this theoretical model is that a broad range of scenarios can be covered without having to fall back on costly destructive testing. However, further tests might be necessary for final validation of the model, particularly in terms of investigating how safety valves react in direct contact with fire.

INERIS confirmed that various other parameters could also be taken into account in the modelling, such as the effect of localised fire, substances other than liquefied gases, other types of receptacle (e.g. vehicle tanks), reduced thickness of, and damage to coatings, aluminium mesh for tanks to allow heat transfer between the liquid and solid phases, etc.

A BLEVE scenario



Any other business

Non-adoption of the 2017 amendments to SMGS Annex 2

The Secretariat of OTIF informed the Joint Meeting of the non-adoption of the 2017 amendments to SMGS Annex 2. The reason they had not been adopted was because of the principle of unanimity that applies in the organs of the Organization for Cooperation between Railways (OSJD) and the position of two OSJD Member States, which was that the text of SMGS Annex 2 should not contain any new references to EU Directives and EN standards. It had also been proposed that in future, all existing references to EU Directives and EN standards in SMGS Annex 2 should be deleted.

This position had been justified by saying that only a few OSJD States were involved in the process of developing EN standards and EU directives. However, the Secretariat of OTIF drew attention to a cooperation agreement that exists between the European Committee for Standardization (CEN), the European Committee for Electro-technical Standardization (CENELEC) and the Russian Federation's standardization organisation (ROSSTANDART), which gives ROSSTANDART permanent observer status in the CEN and CENELEC standardization bodies.

The Joint Meeting regretted that the States that apply SMGS had not adopted the amendments to SMGS An-

nex 2 that correspond to the 2017 amendments to RID. It pointed out that this situation was disadvantageous for the OSJD Member States, because the rejection of all the amendments in these States would lead to differences between the provisions for transport by road, inland waterways, sea and air (ADR, ADN, IMDG Code and ICAO Technical Instructions) on the one hand, and rail transport (SMGS Annex 2) on the other, in relation to all those provisions for which global harmonisation on the basis of the 19th revised edition of the UN Model Regulations is of importance. The Joint Meeting therefore hoped that the OSJD Member States could at least adopt those amendments that were not associated with CEN's standardisation work or with EU directives.

Proposals to correct RID/ADR/ADN

The Joint Meeting agreed to make some corrections to the 2017 editions of RID, ADR and ADN. These corrections had primarily been identified by the International Atomic Energy Agency (IAEA) in relation to Class 7 material and had already been adopted by the UN Sub-Committee of Experts for the UN Model Regulations.

Consultative status for COSTHA

COSTHA (Council on Safe Transportation of Hazardous Articles) is a

non-governmental organisation based in the USA. It already has consultative status in the UN Sub-Committee of Experts on the Transport of Dangerous Goods. COSTHA is a not-for-profit industry association devoted to promoting regulatory compliance and safety in the international transport of dangerous goods. Its 180 member undertakings from various sectors include global or multinational undertakings with their headquarters in North America, Europe and Asia. Participation in the Joint Meeting's work would enable COSTHA to make its member undertakings, particularly those outside Europe, familiar with the provisions of RID/ADR/ADN.

After a brief discussion, COSTHA was granted consultative status in the Joint Meeting.

Next session

The next RID/ADR/ADN Joint Meeting will be held in Geneva from 19 to 29 September 2017 and will deal primarily with the harmonisation of RID/ADR/ADN with the 20th edition of the UN Recommendations on the Transport of Dangerous Goods. This work is prepared by an ad hoc working group, which met in Geneva from 25 to 27 April 2017.

Jochen Conrad

A MODEL FOR THE CREATION OF NEW RAIL SERVICES: THE EXAMPLE OF PARCEL TRANSPORT BETWEEN CHINA AND EUROPE

There is strong growth in the direct exchange of parcels between China and Europe. Trade in this sector should also increase dramatically as the Silk Route project gains momentum and should gradually start to involve countries in Asia and the Middle East. However, despite its advantages in terms of reliability and speed (13 days from China to Europe, compared with 40 days by sea), rail transport is not currently used in this respect. Intercontinental traffic suffers from the complexities that are intrinsic to rail transport. Using the example of parcel consignments, this article proposes the generalisation of an approach based on rigorous definition of the legal interfaces, so that the railways can play a flexible, but central role in this new market.

The huge increase in mail-order shopping is one of the main expressions of how modern economies are interconnected. Platforms such as Ali Baba and, to a lesser extent, Amazon, are increasingly establishing a direct link between producers and consumers. Increasing the added value of goods carried by rail is also a development opportunity for the sector.

The Universal Postal Union has in fact identified this issue and has set up a project team to define guidelines to develop usage of the railways for postal consignments between China and Europe. The International Rail Transport Committee (CIT), the Coordinating Council on Transsiberian Transportation (CCTT) and OTIF have therefore been working together on this project since 2016.

In 2017, the UPU's Postal Operations Council (27 - 31 March 2017) decided to set up a project team (Post-Rail Task Force) to structure this work more effectively. The ambitious terms of reference envisage the preparation of draft Universal Postal Union guidelines with a global outlook by the end of the year. In order to be effective, these guidelines will have to take the rail sector's requirements and constraints into account.

A complex project

The post-rail project is complex be-

cause it will need to rely on four different areas of regulation:

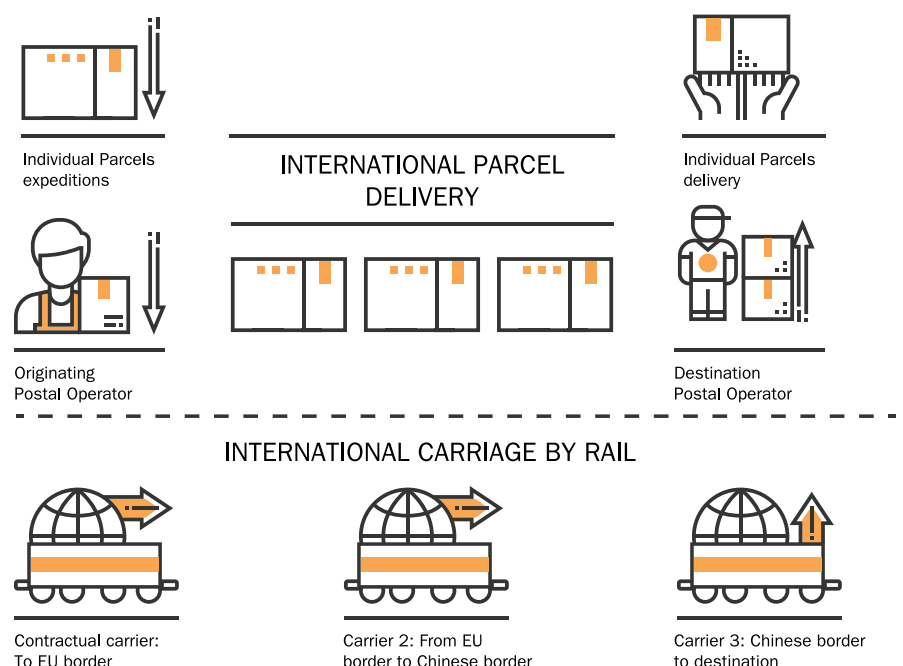
- Sale of goods law
- Postal law (UPU)
- Customs law (WCO/EU)
- Railway law (OTIF/OSJD)

The common goal is to achieve fewer modifications to the different regulations, in order to launch an operational product rapidly. To this end, it is important to identify the different interfaces between these regulations. For the postal regulations, international transport can be seen

as a “black box” that will establish a relationship between the originating postal operator with the destination postal operator. This is shown in fig. 1, where rail could be replaced by air, sea or road transport:

The issue to be resolved concerns the exchange of appropriate information and services between the postal part and the transport part. Against this background, OTIF has proposed that the interactions between the various regulations be modelled, using a model based on ISO's seven layers (Open Systems Interconnection)⁶.

Fig 1: Operation of post-rail project



⁶ See also “The ISO model (Open Systems Interconnection): a useful concept in the railway sector?” in Bulletin No. 2/2014, page 11

An analytical method that is adapted to network industries: the layers of the ISO model (Open Systems Interconnection)

The ISO model is now a theoretical reference point for data transmission networks, particularly the Internet. It breaks down into different layers the various protocols required to transmit data. In a stack of protocols, each layer resolves a certain number of problems relating to data transmission and provides well-defined services to the layers above. The upper layers are nearer to the user and handle more abstract data using the services of the lower layers, which format these data so that they can be transmitted via a physical medium.

To explain the analogies that exist, we must focus for a while on the constraints inherent in establishing data communication between two terminals. In order for data network terminals (figure 1) to be able to exchange information:

1. Each terminal must be capable of exchanging data with all the other terminals;
2. It must be possible to exchange data units (packets) between nodes;
3. It must be possible for physical signals to be transmitted on the lines and for them to transit through the physical interfaces.

Figure 2: A data transmission network

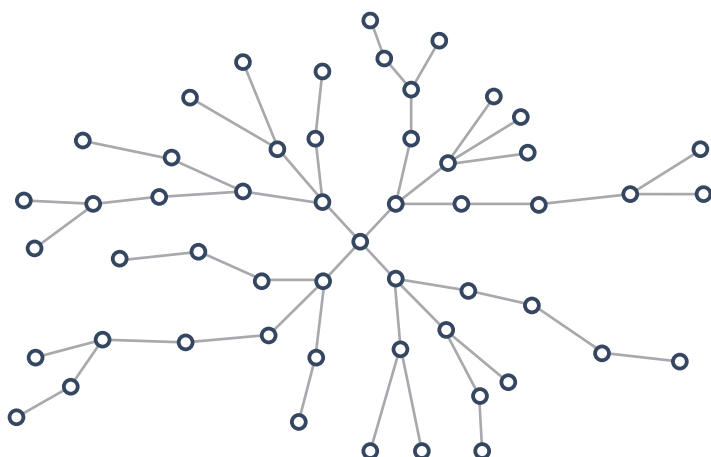
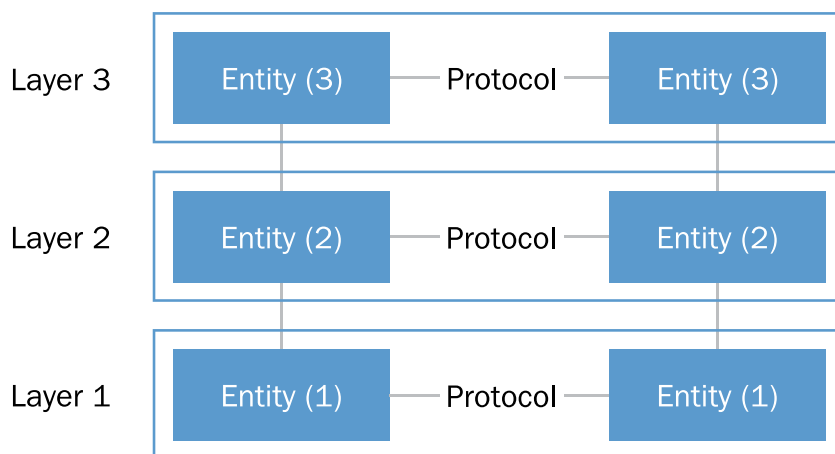


Figure 3: Interactions between layers



If we replace the data packets with wagons/coaches, there is a fairly direct analogy with the issues that would be raised by establishing a freight transport service between a consignor and a consignee. For packets, as for wagons, it must be possible to sort them, assemble them and ensure that they are transported end to end.

All in all, this similarity is quite logical because the physical message services have served as a conceptual model for the development of data transfer protocols. Nevertheless, the more complex aspect of data transfer and the more numerous interface problems that arise have led the telecommunications industry to develop an original model, which is based on different levels of layers delineating the different stages of data transfer. The model defines the interactions be-

tween the layers, which makes it possible to specify accurately the various interfaces and their role:

- Each entity interacts directly with the layer below and offers services to the layer above.
- The service definition describes the functionalities that layer N-1 obtains from layer N.
- Each protocol enables an entity in a host (Network/Terminal node) to interact with another entity at the same level in another host.

This extremely precise segmentation simultaneously deals with issues concerning the physical specifications (cables, radio, type of modulation, etc.) and defines the corresponding services by effectively modelling the necessary interfaces.

Using the ISO model for the legal interfaces in the postal project

In the limited context of this article, it is of course not possible to resolve in detail the complex legal issues that arise in terms of defining the guidelines for international postal transport by rail. The aim is to show that the ISO's hierarchical model makes it easier to envisage the interfaces between the different levels of rules that are necessary. The approach is therefore as follows:

- Assume that each set of regulations must continue to remain

self-standing. As far as possible, each layer necessary to produce the corresponding service (mail-order sales law, postal law, customs law and transport law) will need to use its own procedures from end to end.

- Between each layer, define precisely the exchange of services that is necessary in order to provide the services of the adjacent layers. For example, between the postal part and the rail transport part (arrow No. 2 in figure 5), it will be necessary to define precisely the exchange of information necessary in order to organise transport on the one hand, and the information necessary to establish links between the originating postal operator and the destination postal operator on the other.
- It might be necessary to determine the amendments to be made to the methods for applying the various regulations to take account of the exchange of services that is necessary.

Lastly, a hierarchy between these dif-

ferent layers must be found. It seems appropriate to describe the transport part as the physical layer, the lowest, which takes charge of the international transport of postal parcels between two postal operators, one located in Europe and the other in China.

Then comes the layer corresponding to the postal regulations, which will also underpin the customs issues, as the transit of postal consignments is regulated at international level. This layer will take charge of the collection of parcels in the country of origin and their delivery to the final recipients in the country of destination.

Lastly, the service itself, mail-order sales, represents the highest layer. This is illustrated in the diagram below.

This model therefore helps define precisely how the interfaces between the various regulations (postal, customs and railway) work in order to transmit the information that is necessary to perform the international service. From a practical point of view, OTIF would analyse how to interface rail

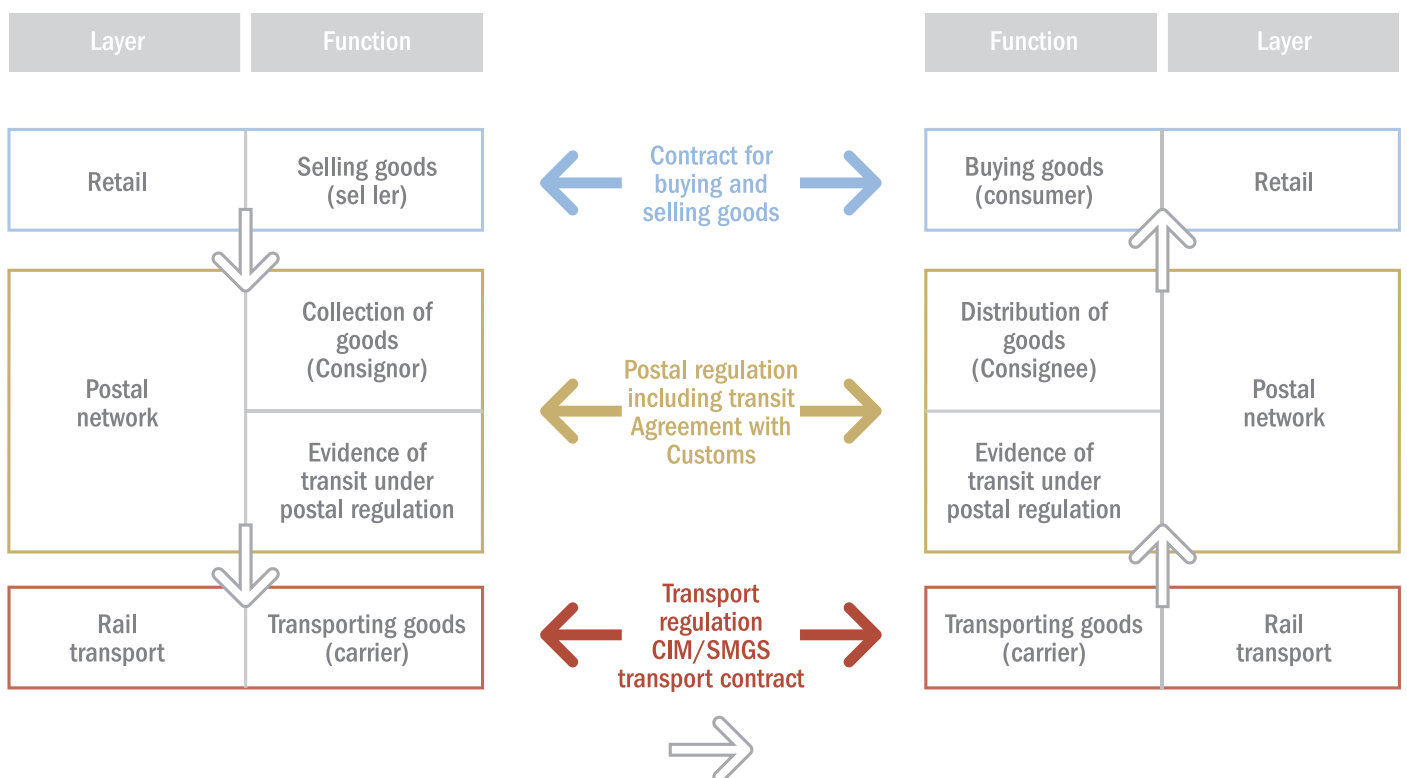
transport following the lines of the UPU's "Framework of service agreement" and the "WCO-UPU Postal Customs Guide" and identify any incompatibilities with regards to CIM/SMGS.

The analysis presented above can be used for other types of service still to be created, in which the railway network must have an interface with other types of regulations to create value. This approach makes it possible to segment the problems and to deal only with the interfaces. Here, the case of postal parcel transport is used as an example to come up with ideas for new services. It helps illustrate that behind the sometimes cumbersome image of the rail mode, it is a network industry which is not entirely dissimilar to the data transmission networks that are having an increasing effect on the structure of economic life.

It is up to the actors to make use of it.

François Davenne

Figure 4: Conceptual model for seamless international parcel delivery by train



FORUM: RULING OF 27 FEBRUARY 2014 BY THE BRANDENBURG OBERLANDESGERICHT (HIGHER REGIONAL COURT) (12 U 10/13)⁷

Firstly, the ruling by the Brandenburg Oberlandesgericht clarifies the significance of the General Contract of Use for Wagons (GCU) as a contract of execution of the CUV UR in general and secondly, establishes that the GCU contains an agreement that is to be considered as an agreement on jurisdiction in accordance with Article 23 of Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Summary

The subject of these legal proceedings was claims for compensation resulting from the derailment of a freight wagon which the railway undertaking (based in Germany) using the wagon brought against the wagon keeper. The keeper was another railway undertaking based in another Member State (Poland).

The lower court dismissed the case as inadmissible, as it had no international jurisdiction. The court of appeal confirmed that the German courts did not have jurisdiction in this case, as the parties had concluded an agreement on the forum. According to Article 23 of Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (hereinafter the “Regulation”), the jurisdiction of the courts that the parties have chosen in an agreement on jurisdiction is exclusive. Article 32 of the General Contract of Use for Wagons (GCU) contains such an agreement on the competent jurisdiction; the agreement set out in the GCU is in line with Article 11 CUV.

The claimant’s compensation claim included both losses suffered by the user railway undertaking and damage to the infrastructure. The latter formed the main, predominant part of the claim. The railway undertaking did not dispute its liability towards the infrastructure manager and com-

pensated it. This fact alone meant that the third party’s compensation claim (from the point of view of the contract of use of wagons), in this case the infrastructure manager’s, had become a claim by the user railway undertaking within the meaning of Article 7 CUV and Article 27 GCU. Nevertheless, the infrastructure manager subsequently assigned its claims to the railway undertaking using the freight wagon. At the court of appeal, the applicant railway undertaking only asserted claims under this transferred/assigned right; in contrast, it expressly decided not to make any claims relating to the damage it suffered directly to its operating equipment.

The court of appeal dismissed the action as inadmissible and unfounded.

Extract from the grounds for the ruling

“The wagon law of the CUV contains rules concerning the contract of use of wagons between the keeper of the wagon that serves as a means of transport and the railway undertaking using the wagon, and focuses on rules concerning mutual liability, periods of limitation and the forum in international rail transport.

The General Contract of Use for Wagons (GCU) is deemed to be a contract of execution of the CUV for using the wagon in national and international

rail freight traffic, and reifies, supplements and modifies the largely dispositive provisions of the CUV. With its several hundred participating wagon keepers and rail transport undertakings, it forms a comprehensive, multilateral contract of use for wagons (pool contract). The free use of wagons by a multitude of rail transport undertakings in Europe and beyond can basically only be ensured by means of a comprehensive multilateral contract of use for wagons, such as the GCU, which pools the multifaceted contractual conditions, thus simplifying them, the result being a virtual legal system. [...]

With regard to the forum, Article 32 GCU contains the following rule: “Unless otherwise agreed between the parties, the competent jurisdiction shall be that in which the defendant is established.” Accordingly, the court in which the defendant is established has international jurisdiction, so in this case the Polish court has international jurisdiction. The rule in Article 11 CUV yields the same conclusion. [...]

The rules contained in Article 32 GCU and Article 11 CUV both talk about exclusive jurisdiction. [...]

In addition, the rule in Article 32 GCU constitutes an agreement on jurisdiction within the meaning of Article 23 of the Regulation.”

⁷ Published on <http://www.gerichtsentcheidungen.berlin-brandenburg.de/jportal/portal/t/1i1n/bs/10/page/sammlung.psmf?doc.hl=1&doc.id=JURE140004434&documentnumber=9&numberofresults=185&doctype=juris-r&showdoccase=1&doc.part=L¶mfromHL=true#focuspoint> and in the “Recht der Transportwirtschaft” journal No. 12/2016 (pp. 543-457).

Note

In Bulletin 1/2017, we published a ruling by the French Court of Cassation that also dealt with the application of Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and of COTIF. Both court cases have something in common, i.e. the fact that railway infrastructure was involved: in the first case, it was the cause of the derailment and the resulting damage, and in the second case, considerable damage was caused to the railway infrastructure by the derailment (caused by a freight wagon). In both cases, the party concerned (in the first case the defendant, in this second case the claimant) tried to justify the jurisdiction of the courts in the states in which the railway infrastructure was situated. They were unsuccessful in both cases.

All the COTIF Appendices that govern contractual conditions (i.e. Appendices A, B, D and E) assume the principle of contractual freedom and therefore allow the contracting parties to agree on the forum. All the Appendices also provide a solution in the event that the parties do not agree anything.

The fact that the accident is being investigated in the State where the railway infrastructure is situated means that there is a close connection to the damage and the corresponding claims for compensation, and hence a possible interest (on the part of the infrastructure manager or the person to whom his rights were transferred) in conducting the proceedings before the courts of this State, irrespective of whether the railway infrastructure had anything to do with causing the damage or was damaged. There are, for example, the investigation reports

published in the national language or other pieces of evidence that might be relevant.

It was against the background of such considerations that the following principles concerning the forum were established in Article 24 CUI: 1. Courts of the Member States determined by the parties in an agreement, 2. Courts of the Member State where the manager has his place of business (unless the parties otherwise agree).

In contrast to the other three Appendices that govern contractual conditions, we are not aware of any court cases which have been brought on the basis of the CUI UR. However, in the case of derailments such as those which these two rulings dealt with, the CUI might apply in certain circumstances in terms of the relationship between the carrier and the infrastructure manager.

Eva Hammerschmiedová

CALENDAR OF OTIF'S MEETINGS IN 2017

DATE	EVENT	LOCATION
27 - 28 June	127 th Session of the Administrative Committee	Berne - Switzerland
11 - 13 July	Informal working group on check-lists for gas tank-wagons	Florence - Italy
28 August - 1 September	RID/ADR/ADN Editorial and Translation Conference	Lübeck - Germany
12 - 13 September	32 nd session of the standing working group WG TECH	Brussels - Belgium
19 - 29 September	RID/ADR/ADN Joint Meeting	Geneva - Switzerland

EVENTS WITH OTIF PARTICIPATION IN 2017

DATE	EVENT	ORG	LOCATION
15 June	Working Party on Customs Questions affecting Transport (WP.30)	UNECE	Geneva - Switzerland
27 - 28 June	CIM Working group	CIT	Berne - Switzerland
30 June	Transport of Dangerous Goods Committee	European Commission	Brussels - Belgium
3 - 7 July	UN Sub-Committee of Experts on the Transport of Dangerous Goods	United Nations	Geneva - Switzerland
6 July	Railway Interoperability and Safety Committee (RISC)	European Commission	Brussels - Belgium
7 July	Administrative Arrangements management meeting	European Commission and the European Union Agency for Railways	Brussels - Belgium
10 - 11 July	Global Transit Conference	WCO	Brussels - Belgium
12 - 13 July	CIM/SMGS Group of Experts	CIT	Berne - Switzerland
22 - 25 August	Group of Experts on Annex 2 to SMGS "Provisions for the Carriage of Dangerous Goods"	OSJD	Riga - Latvia
12 - 13 September	Cape Town Convention Academic Project, 6 th Conference	University of Oxford Faculty of Law and the University of Washington School of Law	Oxford - United Kingdom
27 - 28 September	Vehicle authorisation workshop under the 4 th railway package	European Union Agency for Railways	Valenciennes - France
28 September	Kick-off meeting of the LOC&PAS and WAG TSI limited revisions	European Union Agency for Railways	Lille - France

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