



ORGANISATION INTERGOUVERNEMENTALE POUR LES TRANSPORTS INTERNATIONAUX FERROVIAIRES  
ZWISCHENSTAATLICHE ORGANISATION FÜR DEN INTERNATIONALEN EISENBAHNVERKEHR  
INTERGOVERNMENTAL ORGANISATION FOR INTERNATIONAL CARRIAGE BY RAIL

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**Assemblée générale  
Generalversammlung  
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## **PARTIAL REVISION OF APPENDIX B (CIM UR)**

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Secretary General's report on the progress of the revision work

## **Uniform Rules concerning the Contract of International Carriage of Goods by Rail. (CIM - Appendix B to the Convention)**

### **1. INTRODUCTION**

At its 25<sup>th</sup> session held in Berne on 25 and 26 June 2014, the Revision Committee decided to set up a Revision Committee working group to prepare a revision of the CIM UR, with particular attention to the provisions to be put in place concerning the electronic consignment note.

It also decided that this working group would ask the Revision Committee to approve its proposals by means of the written procedure so that this issue can be dealt with at the next General Assembly.

The CIM UR working group set up by a mandate of the Revision Committee met twice in Berne (9 December 2014 and 18 March 2015). Only four Member States were present at these sessions.

At these two sessions, the working group examined the proposals to amend the CIM UR which the Secretariat had submitted to the Revision Committee in June 2014, with particular attention to the issue of provisions to be put in place concerning the electronic consignment note.

In this document, the Secretary General reports to the 12<sup>th</sup> General Assembly on the work carried out by the CIM working group on the proposals to amend the CIM UR submitted to the 25<sup>th</sup> session of the Revision Committee.

### **2. RESULTS OF THE WORK UNDERTAKEN BY THE CIM UR WORKING GROUP**

#### **a) Amendment to the CIM UR endorsed (Article 6 § 7)**

At its 2<sup>nd</sup> session, the working group endorsed the editorial amendment to Article 6 § 7 of the CIM UR to replace "**European Community**" by "**European Union**" to take account of the new title of the European Community since the entry into force of the Treaty of Lisbon. It recommended that the Revision Committee should approve this amendment so that it could enter into force as soon as possible.

The Revision Committee has the competence for the amendment to Article 6 § 7. As none of the Member States had made any particular objection to the proposal during the work of the 25<sup>th</sup> session of the Revision Committee, the Secretary General will not submit it to the General Assembly to deal with.

In accordance with the decision of the Revision Committee at its 25<sup>th</sup> session, this editorial amendment was approved on 20 April 2015 using the written procedure according to Article 21 § 3 of the Revision Committee's Rules of Procedure.

It was notified to the Member States on 8 May 2015 and in accordance with Article 35 § 3 of COTIF, it should enter into force on 1 May 2016, unless one quarter of the Member States formulate an objection within the period of four months from the day of the notification (see Art. 35 § 4 of COTIF).

## **b) Proposals to amend the CIM UR that will require more in-depth examination**

### *i) Electronic consignment note (new Article 6a)*

The discussions on the provisions to be included concerning the electronic consignment note were very lively and constructive. Thanks to these discussions, the working group was able to make considerable progress in considering the electronic consignment note and agree on a number of conclusions or principles that can be summarised as follows:

1. At this stage of the discussions, it is premature to agree to proposed amendments concerning the electronic consignment note. There were still a number of questions which, owing to the very short period of time between the Revision Committee and the 12<sup>th</sup> General Assembly, could not be examined with the attention the complexity of this issue demands.
2. The issue of the electronic consignment note is nevertheless unavoidable. In some Member States, the railway undertakings already make extensive use of the electronic consignment note. A strong legal basis for the electronic consignment note is therefore necessary.
3. While the electronic consignment note and accompanying documents are given priority, the parties to the contract of carriage must nevertheless agree to establish the consignment note and the accompanying documents in paper form in three cases:
  - If they are unable to define a technical procedure for the recording and processing of data that is operable for all parties interested in the performance of the contract of carriage;
  - If they agree to use the paper form;
  - If they are obliged to establish the consignment note or accompanying documents in paper form because transport to which the CIM UR applies is subject to the provisions of public law, in particular the prescriptions relating to the carriage of dangerous goods as well as the prescriptions of customs law and those relating to the protection of animals (Article 2 of the CIM UR).
4. It would also be advisable, by means of high-level provisions, to specify the essential elements necessary for the procedures for recording and processing electronic data, taking particular account of Article 5 of the e-CMR.

However, it would be up to the international associations of carriers, in this case the CIT, to specify the detailed procedures so that in practice, the parties can put the electronic consignment note into effect under the best conditions in terms of effectiveness and legal certainty. It would also have to be checked whether text should be added to Article 6 § 8 to say that the international associations of carriers must agree on the procedures for electronic data registration and processing.

The principle of functional equivalence of data registration with the paper form is a prerequisite (current Article 6 § 9 of the CIM UR) for all the functions that the paper consignment note fulfils at present.

5. In this respect, the procedure agreed between the parties must of course ensure the integrity and reliability of the information contained in the consignment note and the accompanying electronic documents from the time they are established. It must also make it possible to detect any modifications that are made and to keep the original information contained in the electronic consignment note.

Authentication will be carried out by means of an electronic signature or another appropriate method that ensures its link with the electronic consignment note.

While it did not adopt any definitive provisions, the working group nevertheless endorsed some proposals for a new Article 6a concerning the electronic consignment note, in line with the principles below.

These proposals still have to be examined in depth, but could be used as a basis for future discussions in a working group set up by the Secretary General which will probably meet in 2016 once the sector has re-examined the functional requirements of the electronic consignment note.

*ii) Ascertainment of partial loss or damage (Article 42)*

The working group agreed to say that the considerations taken into account for the electronic consignment note must also be used as a basis for future discussions on the priority to be given to the electronic form of the ascertainment of partial loss or damage (report).

*iii) Time from which the consignee is entitled to modify the contract of carriage (Article 18 § 3)*

Discussions within the UNECE on a new unified legal instrument for the carriage of goods by rail in Eurasia have clarified this issue, which has shown that some time should be taken to think about it before changing Article 18 § 3 of the CIM UR.

The working group therefore agreed to defer the amendment to Article 18 § 3 of the CIM UR until the discussions initiated by the UNECE shed more light on the issue and until the sector examines the matter further.

**c) Proposals to amend the CIM UR withdrawn**

At the 1<sup>st</sup> session of the working group, it was not possible to achieve unanimity or consensus in terms of amending Articles 16, 18 (amendment of the heading only), 19 and 22 of the CIM UR. The working group did not therefore follow up these proposals.

Furthermore, at its 2<sup>nd</sup> session, the working group did not endorse the proposed addition to the Explanatory Report concerning Article 13 of the CIM UR. The majority of participants were of the view that this amendment ran the risk of burdening the carrier with more liability.

**Proposal for decision**

The General Assembly notes the Secretary General's report on the progress of the work on revising the CIM UR and the continuation of the work on revising the CIM UR, particularly the work relating to the provisions to be put in place concerning the electronic consignment note, once the sector has re-examined the functional requirements of the electronic consignment note.