



ORGANISATION INTERGOUVERNEMENTALE POUR LES TRANSPORTS INTERNATIONAUX FERROVIAIRES
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INTERGOVERNMENTAL ORGANISATION FOR INTERNATIONAL CARRIAGE BY RAIL

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PARTIAL REVISION OF APPENDIX D (CUV UR)

Proposals to amend the consolidated Explanatory Report

**Uniform Rules concerning Contracts of Use of Vehicles
in International Rail Traffic
(CUV - Appendix D to the Convention)**

1. Amend the part of the consolidated Explanatory Report on the "Partial revision of the CUV UR" as follows, with the addition of a sentence at the end of paragraph 32:

“32. To this end, the Secretariat set up a working group on the revision of the CUV UR made up of experts from the States, national safety authorities and stakeholders, which met three times in Berne (17 October 2013, 28 January 2014 and 9 April 2014).

In particular, the Secretariat proposed to this working group that it should amend the definition of keeper (Art. 2 c)) to align it as much as possible with the definition in Directive 2008/110/EC, which has been taken over in the ATMF UR. **It also proposed an amendment to Article 9 of the CUV UR.**”

2. Amend the part of the consolidated Explanatory Report on Article 9 of the CUV UR as follows, with the addition of a paragraph 4:

“4. **In July 2013, the Secretariat of OTIF started considering the need to deal at legislative level, in the CUV UR, with the rights and obligations of the parties to the contract of use of wagons as regards wagon maintenance.**

In fact, implementation of the role of ECM in OTIF law is based on Annex A to the ATMF UR on the certification of entities in charge of maintenance¹, which transposes the ECM Regulation² into OTIF law.

The purpose of the amendments to the CUV UR concerning ECMs is therefore to help support the sector in implementing more detailed provisions, as the amendments proposed only provide a general framework.”

The new paragraph 3 of Article 9 therefore aims to ensure

- a) **In § 1, the keeper assumes his obligations in respect of the maintenance of the wagon under the contract of use in international traffic by having recourse to an ECM, which is his servant in line with the model of § 2 of Article 9, which deals with the infrastructure manager. It enables identification of both the person responsible and the legal instrument which underpins this responsibility. The working group on the revision of the CUV UR decided not to define the concept of "ECM" in Article 2. In contrast, the majority of delegations present were in favour of referring to Article 15 § 2 of the ATMF UR, as this provision describes precisely the role and functions of the ECM. The amendment to the first paragraph of Article 9 § 3 of the CUV UR does not affect the existing allocation of responsibilities between the ECM and the vehicle keeper.**
- b) **In § 2, the contract of use organises the exchanges of information required by Article 15 § 3 of the ATMF UR and by Article 5 of Annex A to the ATMF UR. It is essential that the CUV UR can enable clear identification of the role and mutual obligations of the actors, either within the framework of bilateral**

¹ Annex A (A 94-30/1.2012) to the ATMF UR dated 1 May 2012 on the certification and audit of ECM

² Commission Regulation (EU) No 445/2011 of 10 May 2011 on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) No 653/2007

contracts, or in the framework of multilateral contracts, such as the GCU for wagons.