



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  
General Assembly**

**AG 12/21  
30.09.2015**

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**FINAL DOCUMENT**

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1. In accordance with Article 14 § 3 of COTIF of 9 May 1980, as amended by the Vilnius Protocol, the 12<sup>th</sup> General Assembly met in Berne on 29 and 30 September 2015.
2. The following took part in the General Assembly:
  - 2.1 **42 of the 49 Member States**  
 Armenia, Austria, Belgium, Bosnia-Herzegovina, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iran, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, FYR Macedonia, Monaco, Montenegro, Morocco, Netherlands, Norway, Pakistan, Poland, Portugal, Romania, Russia, Spain, Serbia, Slovakia<sup>1</sup>, Slovenia, Sweden, Switzerland, Tunisia, Turkey, Ukraine and United Kingdom;
  - 2.2 **1 supranational regional organisation that has acceded**  
 European Union (EU)
  - 2.3 **2 States with observer status**  
 Azerbaijan (accession procedure in progress)  
 Saudi Arabia
  - 2.4 **2 international organisations**  
 United Nations Economic Commission for Europe (UNECE)  
 Organisation for Cooperation between Railways (OSJD)
  - 2.5 **2 international associations**  
 International Rail Transport Committee (CIT)  
 International Federation of Freight Forwarders Associations (FIATA)
3. In accordance with Article 8 of the Rules of Procedure, the Secretary General provided the Secretariat.
4. The **General Assembly** elected:
 

as Chairman:	Mr Mats Andersson (Sweden)
as first Vice Chairman:	Mr Peter König (Switzerland)
and	
as second Vice Chairman:	Mr Paulo de Andrade (Portugal).

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<sup>1</sup> Represented by the Czech Republic

5. The **General Assembly** set up the following committees with the following members:

5.1 **Credentials Committee**

Chairman: His Exc. Mr Frank Recker  
Ambassador and permanent representative  
of Belgium to OTIF

Vice Chairman: His Exc. Mr Bernardo de Sicart Escoda  
Ambassador and permanent representative  
of Spain to OTIF

Members: Netherlands, Czech Republic, Romania

5.2 **Editorial Committee**

Chairman: Mr Benoît Chevalier (France)

Co-Chairmen: Mrs Christine Ehard (Germany)

Mr Alan Mundy (United Kingdom)

Members: Ireland, Luxembourg, Switzerland

6. The **General Assembly** held its discussions on the basis of its Rules of Procedure as applicable from 19 September 2012.

7. The **General Assembly**:

7.1 adopted its agenda;

7.2 re-elected Mr François Davenne as Secretary General for the period from 1 January 2016 to 31 December 2018 and authorised the Chairman to sign the letter of appointment and hand it to the elected Secretary General;

decided that all candidates for the post of Secretary General should have the opportunity of presenting their applications personally at the 13<sup>th</sup> General Assembly;

decided that in addition to the requirements in accordance with COTIF 1999 and the Secretariat's Staff Regulations, the advertisement for the post of Secretary General should contain the stipulation that applications will only be accepted if they are submitted by Member States and concern nationals of a Member State, although these need not necessarily be nationals of the proposing Member State;

7.3 noted the Secretary General's report on the members of OTIF and welcomed the ratification of COTIF 1999 by Italy and Sweden and the withdrawal of the declarations of the majority of European Member States, the accession of Pakistan and Azerbaijan and the conclusion of the Memorandum of Understanding with the Gulf Cooperation Council;

7.4 for the period from 2016 to 2018, fixed an annual maximum amount of expenditure of CHF 3,850,000;

for the period from 2019 to 2021, fixed an annual maximum amount of expenditure of CHF 3,650,000;

noted the forecast course of the budget for 2016 to 2021 shown in the table below:

**Forecast course of the budget for 2016 to 2021 (in kCHF)**

	2016	2017	2018	2019	2020	2021
<b>Expenditure</b>	<b>3,708</b>	<b>3,690</b>	<b>3,445</b>	<b>3,467</b>	<b>3,490</b>	<b>3,513</b>
Personnel	2,976	2,910	2,712	2,731	2,750	2,769
Running	367	430	431	433	435	438
Organs	265	300	302	303	305	306
Restructuring	100	50	0	0	0	0
<b>Income</b>	<b>3,708</b>	<b>3,690</b>	<b>3,445</b>	<b>3,467</b>	<b>3,490</b>	<b>3,513</b>
Contributions	3,540	3,570	3,375	3,397	3,420	3,443
Reserve fund	100	50	0	0	0	0
Other	68	70	70	70	70	70

7.5 approved:

- a. taking over the task of secretariat of the Supervisory Authority in accordance with Article XII, paragraph 6 of the Luxembourg Protocol,
- b. hosting the Supervisory Authority and its secretariat, by virtue of Article 2 § 2 b) of COTIF,
- c. the organisation of meetings of the Supervisory Authority or its sub-committees under the aegis and responsibility of OTIF;

authorised OTIF's Administrative Committee to sign an agreement with the Supervisory Authority detailing the substance of the tasks to be carried out by OTIF in its capacity as secretariat of this Authority;

during the preparatory phase until the International Registry is fully operational, authorised the Administrative Committee to exceed the maximum amount that expenditure may reach during each budget period from 2016 to 2018. The excess may not be more than the cost of 1/2 a post and the amount of material expenditure during the implementation period of the International Registry, i.e. a total annual amount of 50,000 CHF. The Administrative Committee will formally approve actual implementation of this excess each year on the basis of a report from the Secretary General; these additional costs during the launch phase, which will be taken from OTIF's budget, will be reimbursed from the subsequent fees to be paid to use the International Registry;

- 7.6 adopted the amendments to Articles 3, 12, 14, 15, 20, 24, 25, 26 and 33 of COTIF (see Annex 1);
- approved the amendments to the consolidated Explanatory Report set out in document AG 12/8 Add. 2 (see also Annex 1);
- mandated the Secretary General to make the corresponding amendments to the consolidated Explanatory Report on COTIF and to summarise the decisions it took on the amendments to COTIF in the "General" part of the Explanatory Report;
- 7.7 noted 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;
- 7.8 adopted the amendment to Article 9 of the CUV UR and a new Article 1a (see Annex 2);
- approved the amendments to the consolidated Explanatory Report set out in document AG 12/10 Add. 2, including the justification regarding the new Article 1a set out in document AG 12/10 Add. 3 (see also Annex 2);
- mandated the Secretary General to make the corresponding amendments to the consolidated Explanatory Report on the CUV UR and, if necessary, to summarise the decisions it has taken on the amendments to the CUV UR in the Explanatory Report;
- 7.9 adopted the amendment to Article 3 of the APTU UR (see Annex 3) and instructed the Secretary General to amend the Explanatory Report accordingly in order to reflect the deletion of the term "other railway material" and to publish it; this amendment concerns the APTU, "General" part, point 13, first sentence (see also Annex 3);
- adopted the amendments to Articles 1 and 3 of the ATMF UR (see Annex 4) and instructed the Secretary General to amend the Explanatory Report accordingly in order to reflect the deletion of the term "other railway material" (see also Annex 4) and to publish it. The amendment concerns the ATMF, in the part "In particular":
- Article 3, point 1, second and last sentences,
  - Article 3, point 2, first sentence (twice);
- 7.10 noted the revised and consolidated Explanatory Report (as at 21 April 2015); however, in the Explanatory Report regarding the ATMF UR, Article 3a, para 10, in the second sentence "This could for example apply to the activities of the ECM, or train preparation activities and pre-departure checks by the RU", the phrase "...the activities of the ECM, or ..." is to be deleted; furthermore, in the German version the explanations on Article 15, para 1, second sentence should be amended as follows:
- "In Übereinstimmung mit den gängigen Verfahren verschiedener Vertragsstaaten und zur expliziteren Klarstellung der Pflichten des Halters, ~~sollte der Halter für die Zuweisung einer ECM für seine Fahrzeuge zuständig sein~~ obliegt dem Halter die Verpflichtung, den ihm zugeordneten Fahrzeugen eine ECM zuzuweisen." (see also Annex 4);

Finally the explanations concerning Article 28 of CIM should be amended as follows:

“Article 38 of the CIM Uniform Rules 1980, in the terms in force since 1 January 1991, has been reincluded with minor editorial amendments. Article 40 of the SMGS edition in force since 1 July 2015 contains a similar presumption concerning the reconsignment of goods being carried from a country which is not a member of SMGS.”

instructed the Secretary General to include the changes it adopted and which concern the amendments to COTIF and its Appendices, which it also adopted;

- 7.11 noted the Secretary General's report on the progress of the UNECE's work on unified Euro-Asian railway law;

invited as many Member States as possible to take part in the UNECE's work on unifying international railway law, with a view to setting up a single Euro-Asian legal regime for the carriage of goods;

welcomed the OTIF Secretary General's contribution to the negotiations within UNECE and encouraged the Secretary General to cooperate with UNECE and OSJD with a view to developing uniform Euro-Asian railway law. The Secretary General is encouraged to support the UNECE's efforts to quickly find a solution for managing the future unified railway law;

instructed the Secretary General to submit a report to the 13<sup>th</sup> General Assembly on the progress of work on the UNECE project on "Unified Euro-Asian railway law";

- 7.12 noted and approved the report on the activities of the Administrative Committee in the period between 1 October 2012 and 30 September 2015;

- 7.13 for the period from 1 October 2015 to 30 September 2018, designated the following members of the Administrative Committee and a deputy member for each of them:

<b>Members</b>	<b>Deputy Members</b>
Germany	France
Austria	Armenia
Bulgaria	Romania
Estonia	Iran
Finland	Belgium
Ireland	Ukraine
Italy	Greece
Macedonia (FYR)	Albania
Morocco	Tunisia
Norway	Sweden

Netherlands	Luxembourg
Poland	Czech Republic
United Kingdom	Croatia
Serbia	Bosnia-Herzegovina
Switzerland	Montenegro
Turkey	Pakistan;

elected Serbia to chair the Committee for the same period;

- 7.14 instructed the Secretary General, in accordance with Article 14 § 2 d) of COTIF 1999, to convene the 13<sup>th</sup> General Assembly in September 2018, in conformity with Article 14 § 3, 1<sup>st</sup> sentence, 1<sup>st</sup> option, of COTIF 1999.

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The Secretary General will send a copy of this final document adopted by the General Assembly on 30 September 2015 to the governments of the OTIF Member States, the regional organisations that have acceded to COTIF, and to all other delegations.

**Partial revision of COTIF – Basic Convention****Amendments to the provisions****Decisions:**

Articles 3 § 2, 12 § 5, 14 § 2 letter e), 14 § 6, 15 § 5 letter g), 20, 24 § 5, 25, 26 §§ 5 to 7 and 33 § 4, letter a) of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) and with amendments adopted by the Revision Committee at its 24<sup>th</sup> and 25<sup>th</sup> sessions read as follows:

**“Article 3  
International cooperation**

§ 2 The obligations resulting from § 1 for the Member States, which are at the same time Members of the European Union or States parties to the European Economic Area Agreement, shall not prevail over their obligations as members of the European Union or States parties to the European Economic Area Agreement.

**Article 12  
Execution of judgements. Attachment**

§ 5 Railway vehicles may only be seized on a territory other than that of the Member State in which the keeper has its registered office, under a judgement given by the judicial authority of that State. The term "keeper" means the person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport.

**Article 14  
General Assembly**

§ 2

e) fix, for three year periods, the maximum amount that the expenditure of the Organisation may reach in each budgetary period (Article 25); if not, it shall issue directives relating to the limitation of that expenditure for a period no longer than three years;

§ 6 The General Assembly shall take its decisions by the majority of the Member States represented at the time of the vote, save in the case of § 2, letters e), f), g), h), l) and p) as well as of Article 34 § 6, for which the majority shall be two-thirds. However, in the case of § 2, letter l) the majority shall be two-thirds only in the case of proposals aiming to modify the Convention itself, with the exception of Articles 9 and 27 §§ 2 to 4 and the Protocol referred to in Article 1 § 4.



## COTIF

### **Article 15 Administrative Committee**

§ 5

- g) fix, on the basis of the approved accounts, the definitive contributions due from the Member States in accordance with Article 26 for the previous calendar year, as well as the amount of the treasury advance due from the Member States in accordance with Article 26 § 5 for the current year;

### **Article 20 Committee of Technical Experts**

§ 1 The Committee of Technical Experts shall:

- a) take decisions, in accordance with Article 5 of the APTU Uniform Rules, about the validation of a technical standard relating to railway material intended to be used in international traffic; when taking such decisions, the technical standards or certain specific parts of these standards may either be validated or rejected; they may not under any circumstances be modified;
- b) take decisions, in accordance with Article 6 of the APTU Uniform Rules, about the adoption or modification of a uniform technical prescription relating to the construction, operation, maintenance or relating to a procedure concerning railway material intended to be used in international traffic;
- c) keep a watch on the application of technical standards and uniform technical prescriptions relating to railway material intended to be used in international traffic and examine their development with a view to their validation or adoption in accordance with the procedures provided for in Articles 5 and 6 of the APTU Uniform Rules;
- d) take decisions, in accordance with Article 33 § 6, about proposals aiming to modify the Convention;
- e) deal with all other matters which are assigned to it in accordance with the APTU Uniform Rules and the ATMF Uniform Rules.

§ 2 There shall be a quorum (Article 13 § 3) in the Committee of Technical Experts, when one-half of the Member States, within the meaning of Article 16 § 1, are represented there. When the Committee is taking decisions about provisions of the Annexes to the APTU Uniform Rules, Member States which have made an objection, in accordance with Article 35 § 4, with regard to the provisions concerned or have made a declaration, in accordance with Article 9 § 1 of the APTU Uniform Rules, shall not have the right to vote.

### **Article 24 Lists of lines or services**

§ 5 Carriage on the maritime and inland waterway services referred to in § 1 and carriage on the railway lines referred to in § 2 shall be subject to the provisions of the Convention on the expiration of one month running from the date of the notification of their inclusion by the Secretary General. Such a service or line shall cease to be subject to the provisions of the Convention on the expiration of one month running from the date of the notification of the deletion by the Secretary General, save in respect of carriage underway which must be finished.

## COTIF

### **Article 25**

#### **Work Programme. Budget. Accounts. Annual Report**

- § 1 The budget and accounts of the Organisation shall cover a period of one calendar year. The work programme shall cover a period of two calendar years.
- § 2 The Organisation shall publish a management report every year.
- § 3 The total amount of expenditure of the Organisation shall be fixed, for each budgetary period, by the Administrative Committee on a proposal by the Secretary General.

### **Article 26**

#### **Financing the expenditure**

- § 5 The contributions of the Member States to the expenditure of the Organisation shall be due in the form of a treasury advance payable at the latest by the 31 October of the year covered by the budget. The treasury advance shall be fixed on the basis of the definitive contributions for the preceding year.
- § 6 When sending the management report and statement of accounts to the Member States, the Secretary General shall notify the definitive amount of the contribution for the previous calendar year as well as the amount of the treasury advance in respect of the calendar year to come.
- § 7 After the 31 December of the year the notification is made by the Secretary General in accordance with § 6, the amounts due for the last calendar year shall bear interest at the rate of five per cent per annum. If, two years after that date, a Member State has not paid its contribution, its right to vote shall be suspended until it has fulfilled its obligation to pay. On expiry of a further period of two years, the General Assembly shall consider whether the attitude of that State should be regarded as a tacit denunciation of the Convention and, where necessary, shall determine the effective date thereof.

### **Article 33**

#### **Competence**

- § 4
- a) Articles 9 and 27 §§ 2 to 4;"

## COTIF

### **Amendments to the consolidated Explanatory Report**

#### **Decisions:**

The consolidated Explanatory Report of the Convention concerning International Carriage by Rail (COTIF) is amended as follows:

#### **Article 12 Execution of judgements. Attachment**

Addition of a paragraph 4 which reads as follows:

- “4. The 12<sup>th</sup> General Assembly (Berne, 29 - 30.9.2015) decided to align the definition of "keeper" with the definition adopted by the Revision Committee (25<sup>th</sup> session, 25-26.06.2014) when amending Article 2 c) of the CUV UR.”

#### **Article 20 Committee of Technical Experts**

Addition of a new paragraph 7 which reads as follows:

- “7. According to the CTE, the wording of Article 20 § 3 of COTIF, which prohibited any modification of uniform technical prescriptions at the time UTP are adopted, was not in accordance with Article 33 § 6 of COTIF.

The objective of Article 20 § 3 of COTIF adopted by the 5<sup>th</sup> General Assembly was in fact to avoid modifications being introduced by people who are not responsible for drafting them into a set of requirements being prepared. But in fact, the UTP are drafted by the standing working group WG TECH, in accordance with Article 4 § 2 of APTU. The Member States, the EU and the railway organisations (as observers) can have an influence on the drafting. Many WG TECH participants are also delegated to the CTE.

However, at each session of the CTE, the UTP have had to be amended during the session so that they could be adopted. Such amendments are provided for in the CTE's Rules of Procedure, but were not in conformity with Article 20 § 3 of COTIF.

At its 6<sup>th</sup> session (Geneva, 12.6.2013), the CTE was of the view that the text of Article 20 of COTIF should be amended to come up with wording similar to that adopted by the Revision Committee in October 1998 that would reflect current practice and be fully in line with Article 33 § 6 of COTIF, Articles 5 and 6 of APTU and the Committee of Technical Experts' Rules of Procedure, and submitted a proposal to the Revision Committee along these lines.

At its 25<sup>th</sup> session (25 - 26.6.2014), the Revision Committee approved this proposal to amend Article 20 § 3 of COTIF, which the General Assembly adopted at its 12<sup>th</sup> session (Berne, 29 - 30.9.2015.).”

Current paragraphs 7 and 8 become 8 and 9.

## COTIF

### **Article 24** **Lists of lines or services**

Paragraph 3 reads as follows:

- “3. This does not apply to the case of complementary maritime transport or to inland waterway transport, when this part of the transport is itself trans-frontier. This is why, in these cases, the application of the CIV Uniform Rules and the CIM Uniform Rules continues to be determined by the registration of such lines on the corresponding lists (see the decisions of the Revision Committee concerning Article 1, § 4 of CIV and Article 1, § 4 of CIM cited in No. 1, as well as No. 19 of the remarks relating to Article 1 CIM, General Assembly document AG 5/3.5 of 15.2.1999). These are taken into account in Article 24, §§ 1, 3 and 5. To this extent, the regulation corresponds to Article 10 of COTIF 1980. The retention of the system of registered lines for maritime trans-frontier complementary transport or for inland waterway transport is possible due to the fact, for example, that application of international maritime transport law is not mandatory, as is the case with the CIM Uniform Rules. However, the 12<sup>th</sup> General Assembly (Berne, 29 – 30.9.2015) decided in § 5 to harmonise the period after which a deleted line is no longer subject to COTIF (up to now, three months) and the period for entering new lines (up to now, the line has been subject to COTIF after one month).”

### **Article 25** **Work Programme. Budget. Accounts. Annual Report**

The part of the consolidated Explanatory Report on Article 25 of COTIF reads as follows:

“In 1999, the introduction of a special article was considered to be useful in the interest of editorial simplification, the Revision Committee having decided to change to a biennial timetable in matters relating to the programme of work, the budget, the accounts and the management report (Report on the 19<sup>th</sup> session, pp. 21/22 and 39/40; Report on the 21<sup>st</sup> session, p. 33).

However, this Article was adapted when the 12<sup>th</sup> General Assembly (Berne, 29-30.9.2015) decided to return to an annual timetable, as recommended by the Auditor for the budget, the accounts and the management report.“

### **Article 26** **Financing the expenditure**

Paragraphs 5 and 7 read as follows:

- “5. The 12<sup>th</sup> General Assembly (Berne, 29-30.9.2015) decided to return to an annual timetable, as recommended by the Auditor, particularly for the budget and the accounts (see Article 25 of COTIF). In order to ensure the liquidity of OTIF, the contributions for the current annual period are due, in the form of a cash advance, by not later than 31 October of the budget year covered by the budget (§ 5). The treasury advance shall be fixed on the basis of the definitive contribution for the preceding year.”

[...]

- “7. § 7 corresponds to Article 11 § 2, indent 2 of COTIF 1980”

**Partial revision of Appendix D (CUV UR)****Amendments to the provisions****Decisions:**

1. After Article 1 of the Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic (CUV), Appendix D to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) and with the amendment adopted by the Revision Committee at its 25<sup>th</sup> session the new Article 1a is inserted and reads as follows:

**“Article 1a  
Areas governed**

These Uniform Rules govern only the rights and obligations of the parties which arise from a contract concerning the use of railway vehicles as means of transport for carriage in accordance with the CIV Uniform Rules and in accordance with the CIM Uniform Rules. Public law prescriptions applicable to the use of railway vehicles, in particular those prescriptions relating to the technical admission of vehicles, to maintenance and to operational safety, shall remain unaffected.”

2. Article 9 of the Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic (CUV), Appendix D to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) and with the amendment adopted by the Revision Committee at its 25<sup>th</sup> session reads as follows:

**“Article 9  
Liability for servants and other persons**

- § 1 The contracting parties shall be liable for their servants and other persons whose services they make use of for the performance of the contract, when these servants and other persons are acting within the scope of their functions.
- § 2 Unless the contracting parties otherwise agree, the managers of the infrastructure on which the rail transport undertakings use the vehicle as a means of transport, shall be regarded as persons whose services the rail transport undertaking makes use of.
- § 3 The entity in charge of maintenance (ECM) as defined in Article 15 § 2 of the ATMF Uniform Rules shall be considered as a person whose services the keeper makes use of.

The contract defined in Article 1 shall contain the relevant provisions to ensure the exchange of information as defined in Article 15 § 3 of the ATMF Uniform Rules between the ECM and the railway undertaking.

- § 4 §§ 1, 2 and 3 shall also apply in the case of subrogation in accordance with Article 8.”

## **Amendments to the consolidated Explanatory Report**

### **Decisions:**

The consolidated Explanatory Report of the Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic (CUV) is amended as follows:

#### **Partial revision of CUV UR**

Paragraph 32 reads as follows:

- “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 replicated in the ATMF UR. It also proposed an amendment to Article 9 of the CUV UR.”

Following the adoption by the 12<sup>th</sup> General Assembly of Article 1a at the suggestion of Germany, the part of the consolidated Explanatory Report on the “Partial revision of the CUV UR” is amended as follows, with the addition of a paragraph on Article 1a:

#### **“Article 1a Areas governed**

At the suggestion of Germany, the 12<sup>th</sup> General Assembly adopted Article 1a which aims to clarify that the CUV Uniform Rules exclusively govern the obligations of the contracting parties (keepers and rail transport undertakings) that result from the contract of use and the liability of each contracting party towards the other, and that the CUV Uniform Rules do not supplant the law on public safety and order. This Article follows the model of Article 2 of the CIM Uniform Rules and eliminates all possible doubts as to whether the CUV Uniform Rules really leave provisions of public law unaffected.”

#### **Article 9 Liability for servants and other persons**

Addition of a paragraph 4 which reads as follows:

- “4. In July 2013, the Secretariat of OTIF started considering the need to deal at a 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 maintenance<sup>2</sup>, which transposes the ECM Regulation<sup>3</sup> into OTIF law.

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<sup>2</sup> Annex A (A 94-30/1.2012) to the ATMF UR dated 1 May 2012 on the certification and audit of ECM

<sup>3</sup> 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

## CUV

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

**Partial revision of Appendix F (APTU UR)****Amendments to the provisions****Decision:**

Article 3 of the Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic (APTU), Appendix F to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) and with amendments adopted by the Revision Committee at its 24<sup>th</sup> and 25<sup>th</sup> sessions, reads as follows:

**“Article 3  
Aim**

- § 1 The validation of technical standards relating to railway material and the adoption of UTP applicable to railway material shall have as its aim to
- a) facilitate the free circulation of vehicles in international traffic,
  - b) contribute to ensuring the safety, efficiency and the availability for international traffic,
  - c) take account of the protection of the environment and public health.
- § 2 When technical standards are validated or UTP are adopted, only those prepared at the international level shall be taken into account.
- § 3 To the extent possible
- a) it is appropriate to ensure interoperability of technical systems and components necessary for international traffic;
  - b) technical standards and UTP shall be performance related; if appropriate, they shall include variants.”

**Amendments to the consolidated Explanatory Report****Decision:**

The consolidated Explanatory Report on the Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic (APTU) is amended as follows:



## APTU

### **Explanatory Report General Points**

Point 13 reads as follows:

- “13. It is the APTU Uniform Rules which create the necessary preconditions for uniform regulation of the procedure according to which the authorities of the Member States undertake technical admission of vehicles intended to be used in international traffic. As a result, a technical admission granted in one Member State will be recognised by the other Member States of OTIF without the need for new procedures. A common basis for the procedure of technical admission of railway material can only exist if mandatory uniform standards and technical prescriptions are created in all the Member States of OTIF for the construction and operation/use of railway material.”

**Partial revision of Appendix G (ATMF UR)****Amendments to the provisions****Decisions:**

Articles 1 and 3 of the Uniform Rules concerning Technical Admission of Railway Material used in International Traffic (ATMF), Appendix G to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) and with amendments adopted by the Revision Committee at its 24<sup>th</sup> and 25<sup>th</sup> sessions, read as follows:

**“Article 1  
Scope**

These Uniform Rules lay down, for railway vehicles, the procedure for the admission to circulation or use in international traffic.

**Article 3  
Admission to international traffic**

- § 1 Each railway vehicle must, for circulation in international traffic, be admitted in accordance with these Uniform Rules.
- § 2 The technical admission shall have the aim of ascertaining whether the railway vehicles satisfy
- a) the construction prescriptions contained in the UTP,
  - b) the construction and equipment prescriptions contained in RID,
  - c) the special conditions of an admission under Article 7a.
- § 3 §§ 1 and 2 as well as the following articles shall apply mutatis mutandis to the technical admission of elements of construction.”

**Amendments to the consolidated Explanatory Report****Decisions:**

The consolidated Explanatory Report on the Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic (ATMF) is amended as follows:

**Article 3  
Admission to international traffic**

Points 1 and 2 read as follows:

- “1 Admission of vehicles to operation is necessary and justified for reasons of safety in international traffic (§ 1). The purpose of the technical admission according to the procedure in accordance with the ATMF Uniform Rules (§ 2) is to facilitate the free movement of railway vehicles in international traffic. In addition, the protection of the environment and public health must be taken into account (see Article 3 APTU). No other

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consideration applies to the procedure for the technical admission of railway vehicles in accordance with the ATMF Uniform Rules.

2. § 3 states that the technical admission procedure also applies analogously to construction elements of vehicles. In these cases, in particular, it is the procedure for the granting of an admission of a type of construction which will be applicable (Article 4, § 1, letter b), Nos. 1 and 2). Throughout the text, the term “railway vehicle” includes the construction elements.”

### **Article 3a** **Interaction with other international agreements**

Point 10 reads as follows:

- “10. Insofar as COTIF includes operational rules which are equivalent to EU rules, such as operational rules contained in UTPs, operational activities performed outside the EU in accordance with these COTIF rules should also be recognised in the EU. This could for example apply to train preparation activities and pre-departure checks by the RU.”

The amendments to Article 15 (Maintenance of vehicles) only concern the German language version.