

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTER-
NATIONAL CARRIAGE BY RAIL**

**Commission de révision
Revisionausschuss
Revision Committee**

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Procedural rules for working groups concerning
Appendices A, B, D and E
(language regime)

Par souci d'économie, le présent document a fait l'objet d'un tirage limité. Les délégués sont priés d'apporter leurs exemplaires aux réunions. L'OTIF ne dispose que d'une réserve très restreinte.

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Functioning of OTIF's working groups

In addition to the organs prescribed in COTIF (Art. 13 of the Convention), working groups are a particularly suitable form of working arrangement. Depending on circumstances and the work to be carried out, working groups are either set up by the Secretary General by means of a circular letter, and are open to all the Member States, or they are set up by the General Assembly or a Committee. In addition, working groups limited to a small number of participants can also be set up if there is a majority decision by the General Assembly or a Committee (e.g. working group on harmonising the General Assembly's Rules of Procedure with the new version of the Convention). There might also be ad hoc working groups or standing working groups to carry out tasks over a longer term. Working groups are considered as organs subsidiary to the organs prescribed in COTIF.

The Rules of Procedure (RP) of the Committees include some basic provisions concerning working groups (see Art. 22 of the RP of the Revision Committee/RID Committee of Experts and Art. 22 to 24 of the RP of the Committee of Technical Experts). Otherwise, the Rules of Procedure of each Committee are applied by analogy. The RID Committee of Experts' standing working group and the Committee of Technical Experts' WG TECH therefore have to apply these provisions.

In contrast, it must be pointed out that there are no written rules for working groups set up by the Secretary General. In his capacity as an organ elected by the General Assembly, the Secretary General has a lot of room for manoeuvre which enables him to react to any situations that might arise, if need be. For example, in 2006 a legal working group was considered before the Vilnius Protocol entered into force to discuss the legal consequences of the entry into force of COTIF 1999 if not all States had ratified the Vilnius Protocol in time.

If necessary, this flexibility also allows the Secretary General to set up a working group together with another organisation or to deal with proposals of the same nature. One example is the ad hoc working group on EU law – CUI UR set up in 2008 or the next joint OTIF-OSJD working group on unified Euro-Asian railway law, whose task will be to carry out preparatory work in connection with the UNECE project (see doc. CR 25/5.1). As the work of the various working groups involves costs, the Secretary General always acts under the control of the Administrative Committee.

Working groups can only work effectively if there is a consensus. This applies not just to the issue they are dealing with and to their specific work, but also primarily to certain basic rules concerning the group's working method, in other words its composition, chairmanship, the languages used, the drafting of documents, reports of the session, etc.

Whereas there are often working groups in the areas of RID and railway technology, this has rarely been the case previously in terms of developing COTIF Appendices A, B, D and E. One reason for this is the speed of technical developments and another is the search for a certain degree of stability in the rules for Appendices A, B, D and E, which deal with contractual relationships.

At present, several questions arise in connection with the future development of the Appendices referred to above, which must first be examined by working groups, as necessary, before the Secretary General can submit specific proposals to the Revision Committee or General Assembly. The main Appendices concerned are D and E, and perhaps in the near future Appendix A – CIV, which must be developed in harmony with EU law on passengers'

rights. In this context, the question arises as to whether new procedural rules are necessary in order for these working groups to work as effectively as possible and at a reasonable cost, and if so, what subjects these new provisions would cover. The language regime used in working groups set up by the Secretary General is of prime importance here.

Principles to be followed for the work of ad hoc working groups set up by the Secretary General

As past experience has shown, and in view of future requirements, the following principles should be followed for the work of ad hoc working groups set up by the Secretary General:

- The working groups concerned will work on a consensus-based approach. The Secretary General will decide how his proposals (Art. 21 § 4 of COTIF) are drafted and they must be approved (amended/rejected) by the Revision Committee or the General Assembly (Art. 33 of COTIF).
- In order to simplify procedures, it may be agreed to limit the number of working languages used, depending on the tasks and composition of the group. Working group members may, for example, work partly or wholly in only one of the working languages.
- For a joint working group with another international organisation, it may be justified to use an additional working language (particularly Russian).

Revision Committee ad hoc working groups

For Revision Committee ad hoc working groups, Article 22 of the RP applies. If need be, the language regime for these groups could also be adapted. To this end, Article 22 RP should be adapted as follows, in line with Article 24 of the RP of the Committee of Technical Experts:

Article 22 "Ad hoc" working groups

- § 1 If the Revision Committee considers it necessary, it may set up one or more "ad hoc" working groups to examine specific matters.

§ 2 The Rules of Procedure of the Revision Committee shall be applied *mutatis mutandis* at meetings of the "ad hoc" working groups unless specified otherwise by the Revision Committee.

Then add:

§ 3 The Revision Committee may decide that the working group it has set up shall work in only one language. In particular cases the Revision Committee may leave it to the working group to choose the most appropriate working language. If a speaker uses another language, he/she shall be responsible for arranging for interpretation of his/her statements into the respective working language.

§ 4 The working language determined according to § 3 shall also be used for the documents, reports and other written material necessary for the work of the respective committee or group.

Ad hoc working groups set up by the Secretary General

Ad hoc working groups set up by the Secretary General are different to those set up by the Revision Committee. The Secretary General sets up such groups on a consultative basis to prepare draft texts for the revision. One example of this is the CUV working group that met to prepare the discussions for the Revision Committee.

With regard to the working method of such groups, it seems necessary to organise the work efficiently, particularly with regard to language issues. If the regime of using the Organisation's three working languages for working group meetings is applied too rigidly, this will not help move forward the issues being dealt with, nor can they be dealt with as speedily as necessary. In addition, the question of languages raises financial questions.

At the numerous different working groups, the Secretariat has noted that it is impossible to satisfy the requirements of Article 1 § 6 of COTIF in terms of using the Organisation's three working languages.

The multiplicity of the Organisation's tasks, its different organs, the use of new technologies such as e-mail, which makes communication easier, the exchanges of information, the Secretariat's limited human resources and the deadlines which mean that the texts cannot be prepared in the three working languages force the Secretary General to seek working methods that make it possible to achieve the desired results on time.

In order for the Organisation's working groups – which are often convened with very short deadlines – to run smoothly, the Secretary General believes that it should be possible to interpret this obligation more flexibly.

In this context, the Secretary General proposes that the Revision Committee should approve the attached rules concerning "ad hoc" working groups of OTIF set up on the initiative of the Secretary General to work on Appendices A, B, D and E.



Organisation intergouvernementale
pour les transports internationaux
ferroviaires (OTIF)

Zwischenstaatliche Organisation
für den internationalen
Eisenbahnverkehr (OTIF)

Intergovernmental Organisation
for International Carriage
by Rail (OTIF)

Annex

**Rules concerning
"ad hoc" working groups
of OTIF set up on the
initiative of the Secretary
General to work on
Appendices A, B, D and E**

Version applicable as from 27.06.2014

Article 1 Definition

"Working group" shall mean an "ad hoc" organ set up by the Secretary General to consult the Member States and economic regional integration organisations that have acceded to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as modified by the Protocol of 3 June 1999, on specific matters concerning Appendices A, B, D and E.

Article 2 Composition

Participation in working groups set up by the Secretary General shall be open to all the Member States, regional organisations that have acceded to COTIF and interested international organisations and associations which may be invited to the sessions of OTIF's organs (see Art. 14 § 7 and Art. 16 § 5 of COTIF) in an advisory capacity (members of the working group).

Article 3 Secretariat

The Secretary General shall provide the Secretariat of the working groups.

Article 4 Working languages of working groups

§ 1 The Secretary General shall decide the languages to be used in working groups on a case by case basis in agreement with the Member States and the regional economic integration organisations that have acceded to COTIF.

The Secretary General shall in all cases ensure that the conditions necessary for working group participants to express their views in one of the Organisation's working languages are in place; however, their interventions shall only be interpreted into English. The same shall apply to communications, information or documents from working group members.

§ 2 Before taking a decision on the working languages, the Secretary General shall ensure that the documents are translated so that they are available in OTIF's three working languages.

Article 5 Calling notice - Documents

The Secretary General shall send the Member States, the regional economic integration organisations that have acceded to COTIF and the international organisations and associations that make up the working group (Art. 2) the calling notice and documents for the working group electronically, in good time and within a reasonable period, which shall be not less than 15 days before the session, in order to enable members of the groups to study them and make any proposals.

Article 6
Meeting report

Depending on the decision taken on the language to be used in the working group, a report shall be distributed after each session in the respective language(s). Participants shall inform the Secretary General in writing, within a period fixed by the Secretary General, which shall not be less than 15 days from receipt of the report, of any corrections they wish to make to the report.

Article 7
Other matters

The Rules of Procedure of the Revision Committee shall apply mutatis mutandis to matters which are not dealt with in these rules.

Article 8
Entry into force

These rules shall enter into force on 27 June 2014.

Berne, 27 June 2014

On behalf of the Revision Committee

The Chairman: