



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

**Secrétaire général
Generalsekretär
Secretary General**

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**TO THE MEMBER STATES OF OTIF AND TO THE REGIONAL
ORGANISATIONS THAT HAVE ACCEDED TO COTIF**

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

Proposals to amend Article 6 § 9 of CIM in accordance with the decisions taken at
the 1st session of the CIM working group on 9 December 2014.

1. At its 25th session (Berne, 25 and 26 June 2014), the Revision Committee decided in accordance with Article 22 of its Rules of Procedure to set up a working group to prepare a revision of the CIM UR, with particular attention to provisions to be put in place concerning the electronic consignment note.

At the 1st session of the CIM UR working group held in Berne on 9 December 2014, in order to analyse the revision of the Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM - Appendix B to the Convention) in line with the wishes of the 25th session of the Revision Committee, several suggestions were made to amend the wording of Article 6a.

Within the deadlines prescribed by the Revision Committee's Rules of Procedure, the Secretariat agreed to send the OTIF Member States and the regional organisations that have acceded to COTIF new wording for Article 6a to enable the Member States and parties to give their opinions at another meeting of the working group.

2. Following the discussions during the CIM WG and having taken the advice of CIT and interested Member States, the Secretariat is of the opinion that the wording of Article 6a of the CIM draft of 8 September 2014 (Document CIM 1/2) should be amended in line with the following principles:

1. The principle of the functional equivalence of electronic data registration with the paper form should be established by adapting the sentence of the present Article 6 § 9 CIM which would be added to § 2 of Article 6a of the draft CIM.
2. The sentence in Article 6a § 5 of the draft CIM, which says that the parties may agree to establish the consignment note and the accompanying documents in paper form should be integrated into § 1. Indeed, if the parties do not agree on a consignment note in an electronic form or if there are public law requirements preventing them from doing so (custom or phytosanitary provisions), the consignment note must be established in paper form.
3. The Secretariat is of the view that a model procedure for establishing the electronic consignment note could be defined in accordance with Article 6 § 8 of CIM. As stated in this paragraph, "The international associations of carriers shall establish uniform model consignment notes in agreement with the customers' international associations and the bodies having competence for customs matters in the Member States as well as any intergovernmental regional economic integration organisation having competence to adopt its own custom". To this extent the parties to the contract of carriage could agree on using such a model.

With this in mind, it could be discussed whether it is necessary to specify the essential elements required for the electronic data registration procedure. In this case, the Secretariat believes that Article 5 of CMR could be taken as a basis. In order to provide the international associations with a common framework, it might be advisable to discuss whether it is necessary to add the following paragraph 1b to Article 6a:

§ 1b The procedure used for the registration and treatment of data shall contain in particular:

- (a) The method for the issuance and the handover of the electronic consignment note to the entitled party;***
- (b) The manner in which the party entitled to the rights arising out of the electronic consignment note is able to demonstrate that entitlement;***
- (c) The way in which confirmation is given that delivery to the consignee has been effected;***
- (d) The procedures for supplementing or amending the electronic consignment note; and***
- (e) The procedures for the possible replacement of the electronic consignment note by a consignment note issued by different means.***

3. The Secretariat then proposes the following wording that includes options in square brackets, containing provisions inspired from CMR:

Article 6a CIM – Form of the consignment note

§ 1 The consignment note and accompanying documents shall be established in the form of electronic data registration [, provided that a technical procedure for the registration and treatment of data, which is operable for all parties interested in the performance of the contract of carriage is agreed between the parties].

The parties to the contract of carriage may agree to establish the consignment note and the accompanying documents in paper form.

§2 The procedure used for the registration and treatment of data must be equivalent from the functional point of view to the paper form, particularly so far as concerns the evidential value of the consignment note represented by those data.

§ 3 The procedure for establishing the electronic consignment note and the accompanying electronic documents shall ensure the integrity and reliability of the information they contain from the time they are established [*alternative* : the information contained therein from the time it was first generated in its final form].

§ 4 The procedure agreed between the parties to the contract of carriage for filling out or amending the electronic consignment note shall enable identification of the amendments made.

It shall also enable the original information contained in the electronic consignment note to be kept.

§ 5 The electronic consignment note shall be authenticated [by the parties to the contract of carriage.]

Authentication may [*alternative*: shall] be carried out by means of an electronic signature or another appropriate method [that ensure its link with the electronic consignment note].

3. At the 1st session of the working group, it was decided that the deadline for comments from the OTIF Member States, the regional organisations that have acceded to COTIF and the professional associations should be **10 February 2015**, so the Secretariat kindly requests you to send in your comments on this document by this deadline. The working group also decided that one week later, i.e. on 17 February 2015, the OTIF Secretariat would again send the stakeholders referred to the amended document in which the comments received would be taken into account.

The consultations undertaken by the Secretariat prevented meeting the deadline of 7 January 2014 set by the working group for sending out this document, which is dated 12 January 2015. The Secretariat apologises for this delay.



(François Davenne)
Secretary General

cc:

- European Railway Agency (ERA)
- United Nations Economic Commission for Europe (UNECE)
Transport Division
- Economic Cooperation Organization (ECO)
- Gulf Cooperation Council (GCC)
- International Institute for the Unification of Private Law (UNIDROIT)
- Organisation for Co-operation between Railways (OSJD)
- International Association of Private Sidings Users (AIEP)
- Community of European Railway and Infrastructure Companies (CER)
- European Intermodal Association (EIA)
- European Rail Freight Association (ERFA)
- European Rail Infrastructure Managers (EIM)
- Organisation of Tariff and Transport Experts (IVT)
- International Rail Transport Committee (CIT)
- International Union of Railways (UIC)
- International Federation of Freight Forwarders Associations (FIATA)
- Arab Union of Railways (UACF)
- International Union of Wagon Keepers (UIP)
- International Union of Public Transport (UITP)
- International Union for Road-Rail Combined Transport (UIRR)