



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

Working group "CUI UR"

2nd Session

Report

Berne, 8 July 2015

AGENDA

1. Opening of the session and election of Chair
2. Adoption of the agenda
3. Partial revision of the CUI UR: new criterion for the scope of application of the CUI – discussion on the Secretary General's preliminary draft text and proposals received on this issue
4. Partial revision of the CUI UR: other questions and proposals received from the Member States
5. Any other business
6. Subsequent procedure, date and venue of the next session

DISCUSSIONS

1. Opening of the session and election of Chair

The Secretary General, **Mr Davenne**, opened the session and welcomed all the experts attending from the Member States, the European Commission and the interested associations.

The **working group** elected Mrs Clio Liégeois (Belgium) to chair this session.

2. Adoption of the agenda

The provisional agenda (doc. CUI 2/2) was adopted by consensus.

3. Partial revision of the CUI UR: new criterion for the scope of application of the CUI – discussion on the Secretary General's preliminary draft text and proposals received on this issue

- Doc. CUI 2/3 – Preliminary draft text by the Secretary General
- Doc. CUI 2/3 Add. 1 – Position of Belgium
- Doc. CUI 2/3 Add. 2 – Position of France
- Doc. CUI 2/3 Add. 3 – Position of Germany
- Doc. CUI 2/3 Add. 4 – Position of the United Kingdom
- Doc. CUI 2/3 Add. 5 – Position of the European Rail Infrastructure Managers (EIM)
- Doc. CUI 2/3 Add. 6 - Comments submitted by Prof. Freise
- Doc. CUI 2/3 Add. 7 – Preliminary comments from the International Rail Transport Committee (CIT)
- Doc. CUI 2/3 Add. 8 – Preliminary comments from the International Rail Transport Committee (CIT)¹

In his presentation (see Annex 2), the **Secretary General (SG)** summarised the comments on his preliminary draft text and pointed out the trends that seemed to be emerging:

A majority of those who had made comments in writing preferred the term "international train" to the term "international transport service", which is difficult to define, as the starting point for the scope of application of the CUI. Consequently, the question arose as to a definition of "international train" suitable for the purposes of the CUI. Among the proposals received on this point, the proposal from Professor Freise was impressive in its simplicity and clarity. The majority opinion also seemed to be that it should suffice if a border crossing for

¹ All the documents are available on OTIF's website:
<http://www.otif.org/en/law/working-group-revision-of-the-cui-ur/working-documents.html>.

the train is intended and agreed, and that the train would not lose its characteristic of "international train" if, for whatever reason, it did not actually cross a border.

The SG presented a new proposed text for Article 1 § 1 CUI which took these opinions into account (slide 8). He added that Article 3 (Definitions) would also have to be amended by adapting the existing definition of "carrier" and introducing a new definition of "train" (slides 9 and 10).

DE stressed how important it was to use all three of OTIF's working languages when discussing such difficult subject matter. DE welcomed the fact that it was able to use German, but said it would be useful in terms of achieving a result if the discussions could take place fully in the three working languages.

There followed a discussion in which the **Chair/BE**, the **SG**, the **European Commission**, **GB**, **DE**, **FR**, **RS**, **Professor Freise** (in his capacity as an OTIF expert), **CIT** and **EIM** took part and which covered the following points:

Significance of the CUI in general

BE reported that the CUI had been taken over into the network statements of the Belgian infrastructure manager without making a distinction between national and international use.

In DE's view, the CUI played a minor role in practice. DE asked whether there was in fact any need to regulate the contract on the use of infrastructure beyond the liability rules. In fact, there was only a need to legislate because it is possible for the carrier to have recourse against the infrastructure manager, because in the CIV and CIM, loss or damage caused by the infrastructure is attributed to the carrier. This original purpose of the CUI would have to be ensured in any event when revising the CUI.

Disassociation of the scope of CUI from CIV and CIM contracts of carriage

BE, FR, CIT and EIM confirmed their written positions on this.

RS was not against this in principle.

GB referred to Article 6 (Uniform Rules) of COTIF which imposes an obligation on Member States to ensure that "international rail traffic" is governed by the uniform rules referred to in Article 6 including the CUI UR, the CIV UR and the CIM UR. In GB's view, it is clear that the uniform rules are intended to work together to create a unified system of regulation not freestanding rules. GB considers that the CUI UR apply when: 1) the carrier intends to run a train over a Member State's border (this is "international rail traffic") ; and 2) the carrier is transporting passengers or goods on an international journey to which CIV and CIM uniform rules apply. In GB's view this is what needs to be clarified in any revision of Article 1 (Scope) CUI. It is important to stick to what the drafters of COTIF intended rather than using this exercise to widen the scope of CUI.

According to **Professor Freise**, disassociation of the scope of CUI from CIV and CIM contracts of carriage would make sense, as international transport also took place outside CIV and CIM.

DE thought that in light of ensuring the possibility of recourse under Article 8 CUI, dis-

associating the CUI from the CIV and CIM was questionable.

Preference for the term "international train" as opposed to the term "international transport service"

BE, FR, DE and **CIT** confirmed their written positions on this.

DE had the impression that the overwhelming majority of the working group rejected the term "international transport service" and welcomed this. The scope of application should be clarified, not extended or restricted. However, using the term "international train" was an extension of the existing scope of application to empty trains. On the other hand, certain CIM and CIV transport operations carried out by national trains fell outside the scope of application, even though for the CUI liability regime, there was a need for regulations on this.

The **European Commission** and **GB** shared the Member States' view that terms such as "international transport service" or "principal purpose" should be avoided in the CUI, especially as these were not even interpreted uniformly within the European Union, so they would probably have to be newly defined.

For **RS**, the course chosen was acceptable. In **GB's** view, it would be better to stick to the terminology of Article 6 of COTIF, where the term "international rail traffic" is used. Accordingly, the CIV, CIM and CUI UR had been created for international rail traffic. At the same time, this also made clear that they had not been created for domestic traffic.

EIM, whose position RNE shared, only wanted the revision to be used to clarify the scope of application of the CUI. It should not be used either to extend or reduce the scope of application. The Secretary General's new draft text, which assumed that the CUI should cover use of the infrastructure by international trains, met this aim.

"Agreed" and not necessarily actual border crossing

BE, FR and **CIT** confirmed their written positions on this.

DE thought it was necessary to clarify which "agreement" was involved here. CUI only dealt with agreements in the contract of use of infrastructure. The problem with the current scope of application of CUI was that this contract did not govern the purpose of an international transport operation in accordance with CIM and CIV. **DE** asked whether the contract of use of infrastructure did in fact contain any rules on border crossing and whether at the time when he concludes his contract, an infrastructure manager who is not involved in the contract of carriage knows anything about where the goods being carried on his infrastructure come from or where they are headed.

The train's agreed point of departure and destination: "in two different States" or "in two Member States"?

FR preferred wording saying that these points had to be in two States, at least one of which is a Member State. Otherwise, there would be a discrepancy between the scope of the CIM (Art. 1 § 2 CIM) and that of the CUI.

The **Chair** made a proposal to the SG for the wording of a new version of Article 1 § 1 CUI, amended accordingly.

DE pointed out that Article 1 § 2 CIM involved an opting-in mechanism restricted to freight transport. Should there not instead be a direct link to this provision? If so, then the carrier would have to inform the infrastructure manager if he had agreed to apply the CIM in the contract of carriage. **DE** doubted whether the "point of departure and destination of the train" could be deduced from the contract of use of infrastructure. For every infrastructure manager, only the beginning and the end of his – national – infrastructure were in fact part of the contract.

Professor Freise recalled that it had in fact been wished to disassociate the scope of CUI from the CIV and CIM. At the time a contract is concluded between the carrier and the infrastructure manager, it is not yet known whether the carrier's customer will make use of the possibility offered by Article 1 § 2 CIM. In addition, there would have to be a distinction between the train's point of departure and destination on the one hand, and the endpoints of the train path on the other.

Regulatory scope of the CUI and a new idea: regulate the carrier's recourse against the infrastructure manager in the CIV and CIM?

Professor Freise mentioned a possible new solution: if it were just a question of enabling the carrier's recourse against infrastructure managers, why not include a provision precisely where there was a need for it, i.e. in the CIV and CIM? There would then no longer be the question of whether it was an international or national train that caused the damage when using the infrastructure. Recourse would in any case be assured. He suggested that it should first be clarified what actually had to be regulated.

CIT reminded the meeting that there were currently two areas of regulation:

- firstly, the undoubtedly decisive question of recourse in all cases involving international carriage and in which the damage was caused by the infrastructure;
- secondly, the original legal relationship between the carrier and the manager. When the CUI were developed, it had not been anticipated that there would be exclusively national contracts of use of railway infrastructure, as was the case today. This meant that every infrastructure manager only concluded contracts of use for their own infrastructure. This made it more difficult to organise international trains.

As a representative of carriers' interests, **CIT** made clear that it certainly wished to maintain the status quo in terms of recourse; nevertheless, it was also interested in making it easier to organise international trains by means of a harmonised international legal basis.

DE wondered whether, in view of the numerous national rules, not to mention the safety regulations that applied across Europe, **CIT's** vision could become a reality.

The **Chair** sympathised with both concerns expressed by the carriers. She added that the question of legal certainty, the existence of clear liability rules, could be the deciding factor in whether a contract materialises at all. Consequently, clear rules in the CUI could be of great benefit to the sector.

The **SG** was open-minded about a solution to the question of the carrier's recourse against the infrastructure manager within the CIV and CIM and shared the view of both the Chair and the CIT, emphasising that the carrier's recourse was only a small, though very important part of the regulatory subject matter of the CUI.

Definitions of "carrier" and "train"

In **GB's** view, the starting point should be the existing terms ("international transport", see Art. 6 COTIF), rather than adapting the definitions in CUI or defining new terms.

RS wondered whether the term "railway undertaking" should not be used, as in APTU and ATMF.

The **Chair** explained that the term "carrier" should be understood in a broad sense. In so doing, it should be kept in mind that the CUI liability regime also included the contracting parties' auxiliaries, which in the carrier's case were the traction provider or locomotive driver, for instance.

Following this exchange of opinions on the questions raised in his first presentation, the **SG** introduced an adapted (trilingual) text proposal in a short presentation (see Annex 3).

"These UR shall apply to every contract..."

CIT suggested clarifying in the Explanatory Report that this wording "also covered two successive national contracts of use".

"train for which it is agreed that it will perform international railway traffic"

DE again pointed out that this also required an agreement between the carrier and the infrastructure manager. If the focus was on the purpose of the contract of carriage, which need not be known to the infrastructure manager, the current problem of the scope of application would continue to exist.

4. Partial revision of the CUI UR: other questions and proposals received from the Member States

Under this item, **FR** reminded the meeting of the Secretary General's original text proposal of 23 March 2015 for a new § 4 in Article 5 CUI.

The **Chair** noted that this proposal had not received majority support. It was therefore superfluous to discuss this.

5. Any other business

This item was not discussed.

6. Subsequent procedure, date and venue of the next session

DE said it was unable to give a final position on the Secretary General's new text proposal at this session. The Member States should be given the opportunity to provide their comments on the text in writing at a later stage. **DE** commented to the European Commission that it had

not been necessary to coordinate an EU position, especially as the work of the working group did not usually require coordinated positions from the EU Member States.

The representative of the **European Commission** confirmed that this was the case and made clear that what he had said at the beginning of his first contribution to the discussion, i.e. that he was speaking on behalf of the European Commission and not on behalf of the European Union, as there was "no coordinated position on this", should certainly not be understood as an announcement of coordination of the positions in the framework of this working group.

For the subsequent procedure, **DE** made two proposals to take account of the purpose of the CUI, to make the recourse of the RU possible: either to restrict the scope of application of the CUI to the manager's liability in cases where damage in the area of the infrastructure in accordance with the CIM and CIV UR is attributed to the RU, and on the other hand, to reduce the scope of application of the CUI in favour of extending application of CIV and CIM by dealing with the carrier's recourse against the infrastructure manager directly in the CIV and CIM UR. DE took the opportunity again to raise the question of whether, in the latter case, there remained any meaningful scope of application for the CUI. DE did not have a text proposal for this for the time being, but offered to explain the proposal in more detail in writing.

The **Chair** confirmed the position of **Belgium**, whose interest in developing the CUI went beyond the carrier's right of recourse.

GB was in favour of amending Article 1 (Scope) of CUI to make it clear when the CUI uniform rules govern a contract for the use of railway infrastructure for international rail traffic but GB would need to consult stakeholders about the implications of applying CUI where CIV or CIM UR do not also apply. GB shared DE's view that it was not yet possible to take a final decision on the new text proposal.

EIM only shared DE's view to the extent that it would be desirable to be able to give an opinion on the Secretary General's new text proposal at a later stage. For the rest, as far as the regulatory scope of the CUI was concerned, EIM shared BE's position.

While **CIT** thought the idea of regulating the carriers' recourse in the CIV and CIM was interesting, it was concerned that the other aspect, i.e. the need to regulate the contractual relationship between the carrier and the infrastructure manager, could be lost from sight as a result.

The SG reminded the meeting that at the first session of this working group, it had been agreed to clarify the scope of application of the CUI first, and then to look at the issues surrounding liability. It would be conceivable to reverse this logic with the route referred to by DE, if the Member States wished. However, he expected a better result from the course taken originally, as none of the questions that arose would be forgotten, i.e. the question of the recourse of the carrier, who was liable to his customers for the infrastructure manager, and the question of direct damage by one party or another to the contract of use.

The **Chair** summarised the discussion on how to proceed. The Member States and the stakeholder associations both needed time to give comments on the SG's new text proposal. It would not be advisable to reverse the logic of the approach used so far. DE's proposal to this effect was not supported by any other Member State. Maintaining the approach followed so far would enable the working group to begin with the less contentious issues. At a later stage, it would be easier for the working group to deal with the liability regime.

The Chair also noted that the following questions discussed at this meeting could be resolved in new Explanatory Reports:

- General clarification that the CUI UR relate to international rail transport, with a reference to Article 6 COTIF. If the clarification "under the CIV Uniform Rules or the CIM Uniform Rules" is deleted from the definition of "Carrier", it would also be made clear in the Explanatory Report on this provision that international transport within the meaning of Article 6 COTIF must be involved (request from GB).
- Clarification that international transport implies the use of several national train paths and that the CUI UR therefore also cover two (or more) successive national contracts of use (request from CIT).

The **SG** thanked the Chair for her highly efficient work and for her personal contribution to the further development of his draft. He undertook to send out the new version of his draft, including the additional Explanatory Reports required, by the middle of August, with sufficient time for comments or alternative proposals. The presentations given at this session would be sent to participants by e-mail today or tomorrow.

The next session will be convened on 24 November 2015 in Berne.

The **Chair** closed the meeting and thanked all the participants for their contributions to the discussion, which were evidence of the lively interest in this subject.

ANNEXES:

1. List of participants
2. Secretary General's introductory presentation
3. Secretary General's presentation – working document with the text proposal amended as a result of the discussion (in three languages)




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

2^{ème} session Groupe de travail RU CUI
2. Sitzung der Arbeitsgruppe ER CUI
2nd session of the Working group CUI UR
Berne, Bern, 8.7.2015

Liste des participants
Teilnehmerliste
List of participants

I. Gouvernements / Regierungen / Governments**Allemagne/Deutschland/Germany**Mme./Fr./Ms Anja **Reifenrath**

Richterin am Landgericht, Referentin
Bundesministerium der Justiz und für
Verbraucherschutz
Referat III A 4, Recht der Handelsgeschäfte,
Transportrecht
Mohrenstrasse 37
DE-10117 Berlin

 +49 (30) 185 80 95 43
Fax +49 (30) 185 80 95 25
E-mail reifenrath-an@bmjv.bund.de

Autriche/Oesterreich/Austria

S'est excusé.
Hat sich entschuldigt.
Sent apologies.


Belgique/Belgien/BelgiumMme/Fr./Ms Clio **Liégeois**

Attaché juriste
 SPF Mobilité et Transports
 Dir.Pol.Mobil.durable&ferrov. - Reglementation
 City Atrium
 Rue du Progrès 56
 BE-1210 Bruxelles

 +32 (2) 277 36 08
 Fax +32 (2) 277 40 47
 E-mail clio.liegeois@mobilite.fgov.be

France/Frankreich/FranceM./Hr./Mr. Mafal **Thiam**

Expert, Chargé de mission conventions
 internationales
 Ministère de l'écologie, du développement
 durable et de l'énergie
 Direction générale des infrastructures, des
 transports et de la mer
 Direction des services des transports
 Bureau de la régulation ferroviaire
 Tour Sequoia
 92055 Paris-La Défense Cedex
 France

 00 33 1 40 81 78 75
 Fax
 E-mail mafal.thiam@developpement-
 durable.gouv.fr

**Royaume Uni/Vereinigtes Königreich
United Kingdom**

M./Herr/Mr. Alan **Mundy**

Policy Adviser, Rail Technical International and
Safety
Department for Transport
Infrastructure, Safety and Security Directorate
Rail Executive
4th Floor - Great Minster House
33 Horseferry Road
GB-London SW1P 4DR
United Kingdom



+44 (20) 79 44 67 06

Mobile

Fax +44 (20) 79 44 21 63

E-mail Alan.Mundy@railexecutive.gsi.gov.uk

**Royaume Uni/Vereinigtes Königreich
United Kingdom**

Mme/Fr./Ms Sarah **Pryce**

Senior Lawyer – Rail and London Team
Department for Transport Legal Advisers,
Government Legal Department
Zone 2/16, Great Minster House,
33 Horseferry Road
GB- London SW1P 4DR
United Kingdom




+44 (0) 20 794 445 76

Fax +44 (0) 75 005 735 94

E-mail Sarah.Pryce@dft.gsi.gov.uk


Serbie/Serbien/SerbiaMme/Fr./Ms Branka **Nedeljković**

Directorate for Railways
Head of the Department for Regulatory Affairs
Nemanjina 6
RS-11000 Beograd

 +381 (11) 362 23 10
Fax +381 (11) 361 82 91
E-mail branka.nedeljkovic@raildir.gov.rs

Serbie/Serbien/SerbiaMme/Fr./Ms Zorica **Radović**

Senior Adviser for Legal Affairs
Directorate for Railways
Nemanjina 6
RS-11000 Beograd

 +381 (11) 361 19 44
Fax +381 (11) 361 82 91
E-mail zorica.radovic@raildir.gov.rs

**II. Organisation régionale d'intégration économique
Regionale Organisation für wirtschaftliche Integration
Regional economic integration organisation**

**Union européenne
Europäische Union
European Union**

**Commission européenne/Europäische
Kommission/European Commission**

M./Hr./Mr. **László Polgár**

Policy Officer
European Commission - DG MOVE.B.2
Transport policy in general, land transport
Office: DM28 4/08
Rue Demot 28
BE-1049 Brussels/Belgium



+32 (2) 2959349

Fax +36 (1) 795 06 55


E-mail Laszlo.POLGAR@ec.europa.eu

III. Organisations et associations internationales non-gouvernementales
Nichtstaatliche internationale Organisationen und Verbände
International non-governmental Organisations or Associations

CIT

M./Hr./Mr. Cesare **Brand**


Generalsekretär
CIT - Internationales Eisenbahntransportkomitee
Secrétariat général
Weltpoststrasse 20
CH-3015 Bern

 +41 (31) 350 01 93
Fax +41 (31) 350 01 99
E-mail cesare.brand@cit-rail.org

CIT


Mme/Fr./Ms Myriam **Enzfelder**

M. Law, Rechtsanwältin, Senior Legal Adviser
CIT - Internationales Eisenbahntransportkomitee
Weltpoststrasse 20
CH-3015 Berne

 +41 (31) 350 01 96
Fax +41 (31) 350 01 99
E-mail myriam.enzfelder@cit-rail.org


EIMM./Hr./Mr. Tommaso **Spanevello**

EU Policy Analyst
EIM aisbl (European Rail Infrastructure
Managers)
Square de Meeûs 1
BE-1000 Brussels

 +32 (2) 234 37 73
Fax +32 (2) 234 37 79
E-mail tommaso.spanevello@eimrail.org

RNEMme/Fr./Ms. Yvonne **Dessoy**


Chairwoman RNE Legal Matters Working
Group (LM WG)
RNE - RailNetEurope
DB Netz AG
Theodor-Heuss-Allee 7
DE-60486 Frankfurt am Main

 +49 (69) 265 319 49
Fax +49 (69) 265 316 80
E-mail Yvonne.Dessoy@deutschebahn.com

**IV. Expert de l'OTIF
Sachverständiger der OTIF
OTIF expert**

M./Hr./Mr. **Rainer Freise**


Prof., Experte
Bessunger Strasse 29
DE-64285 Darmstadt

 +49 (6151) 504 60 39
Fax +49 (6151) 660 71 58
E-mail rhfreise@t-online.de

**V. Secrétariat
Sekretariat
Secretariat**


M./Hr./Mr. **François Davenne**

Secrétaire général
Generalsekretär
Secretary General

 +41 (31) 359 10 10
E-mail francois.davenne@otif.org


M./Hr./Mr. **Carlos Del Olmo**

Conseiller
Rat
Counsellor

 +41 (31) 359 10 13
E-mail carlos.delolmo@otif.org

Mme/Fr./Ms **Eva Hammerschmiedová**

Conseiller adjoint
Stellvertretende Rätin
Assistant Counsellor

 +41 (31) 359 10 14
E-mail eva.hammerschmiedova@otif.org

**VI. Interprètes
 Dolmetscher
 Interpreters**

M./Hr./Mr. **David Ashman**

david.ashman@otif.org



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

Revision of the CUI UR

Clarification of the scope of application of the CUI

SG – CUI WG – 08/07/2015



- Linked to CIV/CIM contracts of carriage
- Interpretation problem – need for clarification
- Reason for disconnecting the general scope from a CIV/CIM contract of carriage – see scoping note and written comments which the Secretary General has received



- A solution based on the term “**international service**” as defined in Directive 2012/34/EU (in particular Article 3 (5) relating to “international passenger service”) or
- A solution based on the term “**international train**”.

(Result of discussions at the first session of the WG and subsequent discussions with stakeholders)



Trigger for application of the CUI UR – Text proposal

§ 1 These Uniform Rules shall apply to the contract(s) of use of railway infrastructure for an international [transport service] / [train]. Within the meaning of these Uniform Rules an “international transport service” is a transport service where:

- a) The train crosses a Member State’s border at least once and**
- b) the principal purpose of the service is carriage within the meaning of the CIV or CIM Uniform Rules.**

[The train may be joined and/or split, and the different sections may have different origins and destinations, provided all wagons and coaches cross at least one border.]

[Within the meaning of these Uniform Rules, an “international train” is a transport service foreseen in the train path order according to which the train will cross a Member State’s border at least once.]

§ 2 These Uniform Rules shall apply regardless of whether, for an international [transport service] / [train], one or several contracts of use of railway infrastructure have to be concluded, each one in accordance with the national law applicable on the territory of each State concerned.

Why preference for “international train”?

BE and FR arguments:

- terms such as “international transport service” and “principal purpose”, defined in another context/for another purpose (passenger traffic open for competition) are not suitable for use in CUI
- risk: terms and definitions used in the EU directive “Recast” may be changed in the framework of the 4th railway package

DE arguments:

- Using the term “international transport service” may cause new interpretation problems
- Problem for non-EU Member States (which institution could determine the principal purpose?)



GB argument: no need for harmonised uniform rules if a train service crosses a border without the passengers or goods crossing the border

(even if the second criterion, “international train”, creates greater legal certainty)



What is an international train?

Do we need a definition of “**international train**”?

If so, what might be the elements of the definition?

- Any operating unit (one or more wagons)
- Border crossing – intended/**agreed** by both parties to the contract of use (i.e. not necessarily actual border crossing)
- (Agreed) use of railway infrastructure on the territory of at least **two States / two Member States** (options to discuss)

If so, to be defined in Article 1 or in Article 3?



- § 1 These Uniform Rules shall apply to any contract of use of railway infrastructure of a Member State by a train whose agreed points of departure and destination are situated on the railway infrastructure of two different [Member] States.**
- § 1 Les présentes Règles uniformes s'appliquent à tout contrat relatif à l'utilisation de l'infrastructure ferroviaire d'un État membre par un train dont le point de départ et le point de destination convenus se situent sur l'infrastructure ferroviaire de deux États [membres] différents.**
- § 1 Diese Einheitlichen Rechtsvorschriften gelten für jeden Vertrag über die Nutzung der Eisenbahninfrastruktur eines Mitgliedstaates durch einen Zug, bei dem der vereinbarte Abgangsort und der vereinbarte Bestimmungsort auf der Eisenbahninfrastruktur zweier verschiedener [Mitglied-]Staaten liegen.**



New/adapted definitions in Article 3?

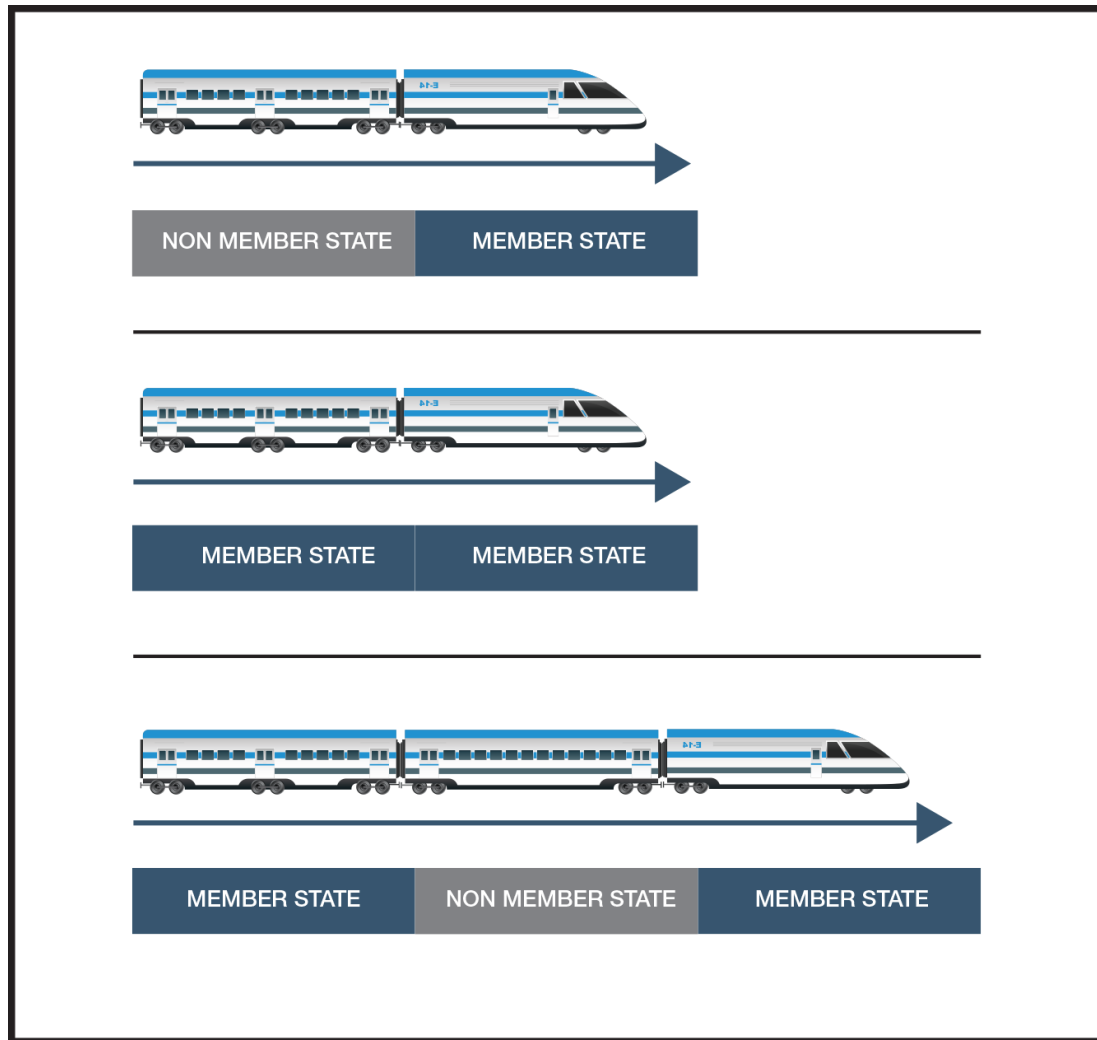
- c) “carrier” means the person who carries persons or goods by rail in international traffic ~~under the CIV Uniform Rules or the CIM Uniform Rules~~ and who is licensed in accordance with the laws and prescriptions relating to licensing and recognition of licenses in force in the State in which the person undertakes this activity;
- c) « transporteur » désigne celui qui transporte par rail des personnes ou des marchandises en trafic international ~~sous le régime des Règles uniformes CIV ou des Règles uniformes CIM~~ et qui détient une licence conformément aux lois et prescriptions relatives à l’octroi et à la reconnaissance des licences en vigueur dans l’Etat dans lequel la personne exerce cette activité ;
- c) „Beförderer” denjenigen, der Personen oder Güter im internationalen Verkehr ~~nach den Einheitlichen Rechtsvorschriften CIV oder Einheitlichen Rechtsvorschriften CIM~~ auf der Schiene befördert und der nach den Gesetzen und Vorschriften betreffend die Erteilung und Anerkennung von Betriebsgenehmigungen, die in dem Staat gelten, in dem die Person diese Tätigkeit ausübt, eine Betriebsgenehmigung erhalten hat;



- **x) “train” means the operating unit which the carrier utilises on the railway infrastructure[; the train may be joined and/or split, and the different sections may have different origins and destinations].**
- **x) « train » désigne l’unité d’exploitation dont use le transporteur sur l’infrastructure ferroviaire internationale[; le train peut être assemblé et/ou divisé, et les différentes parties le constituant peuvent avoir des provenances et des destinations différentes].**
- **x) „Zug“ die Betriebseinheit, die der Beförderer auf der Eisenbahninfrastruktur einsetzt[; der Zug kann erweitert und/oder geteilt werden, und die verschiedenen Zugteile können unterschiedliche Abfahrts- und Bestimmungsorte haben].**



New draft proposal for Article 1 – variants to discuss





1 – International trains:

Application of the CUI with a uniform regime for all CIM/CIV contracts in terms of liability to the infrastructure manager

2 – National trains:

Application of Articles 51 CIV/40 CIM: the IM is a servant of the carrier

=>2 solutions to deal with damage/injury to persons/goods being carried by national trains under a CIM/CIV contract with involvement of the IM:

- harmonised international liability regime, to be governed by CUI (see Explanatory Report, Art. 1, paras. 7 and 8) or by (new) Articles 62bis CIV/50bis CIM;
- national law.

Revision of the CUI UR

Clarification of the scope of application of the CUI

-

Working document

SG – CUI WG – 08/07/2015



- § 1 These Uniform Rules shall apply to any contract of use of railway infrastructure of a Member State by a train for which it is agreed that it will perform international railway traffic between two States, at least one of which is a Member State.**
- § 1 Les présentes Règles uniformes s'appliquent à tout contrat relatif à l'utilisation de l'infrastructure ferroviaire d'un État membre par un train dont il est convenu qu'il réalise un trafic ferroviaire international entre deux Etats, dont au moins un est un Etat membre.**
- § 1 Diese Einheitlichen Rechtsvorschriften gelten für jeden Vertrag über die Nutzung der Eisenbahninfrastruktur eines Mitgliedstaates durch einen Zug, der vereinbarungsgemäß internationalen Eisenbahnverkehr zwischen zwei Staaten durchführt, von denen mindestens einer ein Mitgliedstaat ist.**



Adapted definition in Article 3

- c) “carrier” means the person who carries persons or goods by rail in international traffic ~~under the CIV Uniform Rules or the CIM Uniform Rules~~ and who is licensed in accordance with the laws and prescriptions relating to licensing and recognition of licenses in force in the State in which the person undertakes this activity;
- c) « transporteur » désigne celui qui transporte par rail des personnes ou des marchandises en trafic international ~~sous le régime des Règles uniformes CIV ou des Règles uniformes CIM~~ et qui détient une licence conformément aux lois et prescriptions relatives à l’octroi et à la reconnaissance des licences en vigueur dans l’Etat dans lequel la personne exerce cette activité ;
- c) „Beförderer” denjenigen, der Personen oder Güter im internationalen Verkehr ~~nach den Einheitlichen Rechtsvorschriften CIV oder Einheitlichen Rechtsvorschriften CIM~~ auf der Schiene befördert und der nach den Gesetzen und Vorschriften betreffend die Erteilung und Anerkennung von Betriebsgenehmigungen, die in dem Staat gelten, in dem die Person diese Tätigkeit ausübt, eine Betriebsgenehmigung erhalten hat;



- **x) “train” means the operating unit which the carrier utilises on the railway infrastructure[; the train may be joined and/or split, and the different sections may have different origins and destinations].**
- **x) « train » désigne l’unité d’exploitation dont use le transporteur sur l’infrastructure ferroviaire internationale[; le train peut être assemblé et/ou divisé, et les différentes parties le constituant peuvent avoir des provenances et des destinations différentes].**
- **x) „Zug“ die Betriebseinheit, die der Beförderer auf der Eisenbahninfrastruktur einsetzt[; der Zug kann erweitert und/oder geteilt werden, und die verschiedenen Zugteile können unterschiedliche Abfahrts- und Bestimmungsorte haben].**