



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

**Groupe de travail « RU CUI »
Arbeitsgruppe „ER CUI“
Working group "CUI UR"**

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Comments from the International Rail Transport Committee (CIT)



Comité international
des transports ferroviaires

Internationales
Eisenbahntransportkomitee

International Rail
Transport Committee

CIT, Weltpoststrasse 20, CH-3015 Bern

OTIF

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Position of the CIT and suggestions for amendments to your third draft (14 August 2015) of a possible proposal to amend Article 1 of the CUI Uniform Rules

Dear Secretary General,

Thank you on behalf of the CIT for your invitation to the 3rd session of the CUI working group and for the opportunity to state our position on your third draft of a new version of Art. 1 CUI (the version as at the end of the 2nd session of the CUI working group on 8 July 2015). Thank you also for extending the deadline for comments.

Attached is the CIT's formal position with suggestions for amendments in German, English and French (see document "*CUI__2015_10_16_Position_CIT_[...].pdf*").

We should like in particular to highlight the following three points:

1. New wording proposed for Art.1 § 1 CUI

In the CIT bodies, we have looked in depth at the wording proposed by OTIF and have pointed out various weak points of the new wording in our position attached.

Internal discussions in CIT have shown that if the wording of the scope of application were to be considerably simplified, this would reduce or even completely avoid misunderstandings in terms of the interpretation. We should therefore like to submit a new proposal for discussion in the working group. In our view, this new proposal is precise, brief and practice-oriented. It is understood by infrastructure managers and carriers alike and leaves little room for differing interpretations. This therefore increases legal certainty to a considerable extent.

CIT believes that the main added value of this newly proposed wording is that it avoids the weaknesses of the current version as well as those inherent in the previous drafts. The proposal submitted also satisfies the demands of previous comments and discussions in OTIF's CUI working group and could be the starting point for discussions at the next session of the CUI working group.

2. Fall-back proposal

If the CUI working group rejects the CIT's suggestion of new wording for Art. 1 § 1 CUI, CIT maintains its last position and the corresponding suggestions for amendments (see attached CIT position of 2 July 2015, which was made available to the members of your CUI working group as working document "CUI_2_3_Add-8_Position_CIT").

The in-depth analysis carried out in CIT's bodies has shown that OTIF's new proposed wording dated 14.08.2015 does not constitute any real progress in comparison with the initial text that was dealt with at the last session of OTIF's CUI WG. As a result, CIT again attaches the relevant document setting out our position in DE/FR/EN.

3. Significance of CIT's suggestion in terms of a new paragraph 3

CIT is of the view that a further specific paragraph is necessary in the scope of application in order to ensure that the extent of carriers' recourse for indirect damages paid on the basis of compensation in accordance with the CIV and CIM UR continues to be guaranteed.

With regard to CIT's suggestion, only the numbering has changed (as a result of the new paragraph 2 in the third draft). CIT has set out the reasons for the suggestion in its position and refers to them fully.

Supplementing the scope of application is necessary for the application of Art. 8 CUI and this is a key concern for CIT's members. It would be unacceptable to our members if the possibilities for recourse in the current CUI, which in any case are only limited, were to be limited further as a result of a reworded scope of application.

Thank you for taking this position into account in the revision work.

If you have any questions, I should be happy to provide you with further explanations of our suggestions at any time.

With best regards



Cesare Brand
Secretary General

Annexes:

- CIT's position on the OTIF SG's third draft new version of Art. 1 CUI dated 18. August 2015 (*CUI_2015_10_16_Position_CIT*) in DE/EN/FR
- Annex to CIT's position of 2 July 2015 (*CUI_2_3_Add-8_Position_CIT*) in DE/EN/FR