



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

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**Groupe de travail « RU CUI »  
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New draft texts by the Secretary General

**NEW DRAFT TEXT FOR ARTICLE 1 CUI**Article 1  
Scope

**§ 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.**

**§ 2 These Uniform Rules shall apply irrespective of the place of business or the nationality of the contracting parties and even when the railway infrastructure is managed or used by States or by governmental institutions or organisations.**

**§ 3 Subject to Article 21, these Uniform Rules shall not apply to other legal relations, such as in particular**

- a) the liability of the carrier or the manager to their servants or other persons whose services they make use of to accomplish their tasks;
- b) the liability to each other of the carrier or the manager of the one part and third parties of the other part.

**DRAFT TEXT FOR ARTICLE 3 CUI**Article 3  
Definitions

For the purposes of these Uniform Rules the term

- 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;
- 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].

## AMENDMENTS TO THE EXPLANATORY REPORT PROPOSED IN CONNECTION WITH THE NEW DRAFT TEXTS

### Title I

#### General Provisions

#### Article 1

#### Scope

1. According to Article 1, the CUI Uniform Rules (UR) are applicable to every contract of use of railway infrastructure ~~is international carriage by rail within the meaning of the CIV UR and the CIM UR.~~ **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.**
  - a) ~~In this context the term “carriage” has the same meaning as in other transport law conventions, such as CMR, Warsaw and Montreal Convention, Hamburg Rules and Athens Convention. Regarding the term “international carriage within the meaning of the CIV UR and the CIM UR” see explanatory notes with regard to Article 1 CIV and Article 1 CIM. The term "international transport" is to be understood in connection with Article 6 of COTIF.~~
  - b) ~~The expression “for the purposes of” (CIV/CIM international carriage) in § 1, makes it clear that the purpose of use is a crucial point. So it does not mean, for example, “during the performance” of international carriage by rail. Therefore, use for the purpose of preparations before the train is made ready and dispatched (before the first passenger gets into the train or the goods are loaded) and for the purpose of the work carried on once carriage has been completed (e.g. cleaning and empty returns) are also included in the scope of the contract of use as long as these actions are linked to subsequent or preceding carriage under CIV or CIM. International transport implies the use of several national train paths. The CUI UR also cover two or more successive national contracts of use used to carry out international transport.~~
  - c) ...
  - d) CUI also applies to the use of the railway infrastructure in those States where there has been no separation of infrastructure management from the provision of transport services and hence where an integrated undertaking is working in both areas of railway operation, in so far as foreign railway undertakings are allowed access to the infrastructure in these States.
2. ...
3. ~~The CUI Uniform Rules are applicable only insofar as the purpose of the contract of use is *international* carriage by rail within the meaning of the CIM Uniform Rules and the CIV Uniform Rules. The Member States are nevertheless free to provide the same legal system for internal traffic.~~
3. ~~The final sentence of § 1 § 2 clarifies that the CUI Uniform Rules are also applicable to a railway infrastructure managed by a State or by governmental institutions. ...~~

... (Continuation depends on further discussions in the working group)

### Article 3 Definitions

1.-3. ...

4. ... the definition of the term “**carrier**” in letter c) to make clear that where the law of the EU or corresponding domestic law applies, a person falling under the definition has to be aware of all licensing obligations. In particular, non-EU carriers have to note that, when contracting with infrastructure managers of EU Member States as “railway undertakings” under the law of the EU, they are subject to EU obligations, in particular licensing and safety certification requirements. **The term "international transport" used in the definition of "carrier" is to be understood in connection with Article 6 of COTIF.**

... *(Continuation depends on further discussions in the working group)*