



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"**

**LAW-16014-CUI 4/4 Add. 8
29.04.2016**

Original: EN

4TH SESSION

Position of Poland

E-mail received from Mr. Krzysztof Kulesza, Ministry of Infrastructure and Construction, Railway Transport Department, dated 4 April 2016

- We support the conclusions elaborated during the discussions regarding the amendments of the CUI UR in Article 1 - Scope), Article 3 - Definitions, Article 8 - Liability of the manager (option II).
- As regards in particular the question of “Scope of application of liability provisions”:

We think that the aim to work out coherent provisions of “closed liability chain” is worth to be achieved so we support Professor’s Freise opinion on such an extension of the liability regime that: “It was only logical and equitable that a manager who renders a carrier liable to its customers should be liable to a carrier in the same way as a carrier is liable to its customers”. This would in fact cause problems if the CUI UR were only to apply to the use of infrastructure by international trains. But with regard to the carrier’s recourse against the infrastructure manager we would support the option that this recourse should be transferred to CIV UR and CIM UR. These solutions would give the carrier the right of recourse under any international contract of carriage, irrespective of whether an international or national train was used to realize the contact of carriage. This would allow the carrier to exercise his right of recourse in each instance of international carriage.

Additional information: Railway Department is drafting now some amendments to the national law (railway act) that are focused among others on the aspects of the carrier’s recourse specific to delays in relation to the timetable which the infrastructure manager is liable. But we understand these questions are not covered by CUI UR.

We do hope we will be able to give more comments during the next session of the CUI UR Working Group.