



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 »  
Arbeitsgruppe „ER CUI“  
Working group "CUI UR"**

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**4<sup>TH</sup> SESSION**

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Position of the United Kingdom

ON THE PROPOSALS SENT BY THE OTIF SECRETARY GENERAL WITH REFERENCE  
TO THE REVISION OF THE UNIFORM RULES CONCERNING THE CONTRACT OF USE  
OF INFRASTRUCTURE IN INTERNATIONAL RAIL TRAFFIC ('CUI' - APPENDIX E TO  
THE COTIF) DATED 29<sup>TH</sup> JANUARY 2016  
UK RESPONSE

## 1. SCOPE

The UK notes the proposed amendment in relation to Article 1(1) as follows:

“These Uniform Rules shall apply to any contract of use of railway infrastructure in a Member State by a train for international railway traffic between States, at least one of which is a Member State.”

### (i) UK PROPOSAL:

The UK proposes that the definition be amended to:

“These Uniform Rules shall apply to any contract of use of railway infrastructure in a Member State by a train for international railway traffic between at least two Member States.”

### (ii) RATIONALE:

The UK supports the objective to clarify the scope of the application of the Uniform Rules and avoid any ambiguity and accordingly supports a reference to “international railway traffic.”

The inclusion of the words ‘international railway traffic’ excludes the possibility of an extension of the Uniform Rules to domestic carriage and links the scope to the actual objective of the contract of use.

The UK considers the purpose of CUI is to address the railway undertaking/infrastructure manager relationship in circumstances where the railway undertaking is the carrier under the Uniform Rules concerning the Contract of International Carriage of Passengers by Rail ('CIV') and the Uniform Rules concerning the Contract of International Carriage of Goods by Rail ('CIM').

Accordingly, the above proposed amendment which refers to international railway traffic, ‘between States’ represents an inconsistency with the scope provisions contained in CIV and CIM – both of which refer to ‘two different Member States.’ In addition, Article 10 of the Convention General Provisions refers to ‘Member States’ who may agree supplementary provisions for the execution of the CIV and CIM Uniform Rules.

## 2. DEFINITION - ‘international railway traffic’

The UK notes the proposed definition that

“ ‘international railway traffic’ means ‘traffic which implies the use of an international train path or several successive national train paths situated in at least two States and coordinated by the infrastructure managers concerned.’”

## (i) PROPOSAL

The UK proposes that the definition be amended to:

“ ‘international railway traffic’ means traffic which requires the use of an international train path or several successive national train paths situated in at least two member states and coordinated by the managers concerned in order to allow carriage of persons or goods within the meaning of the CIV Uniform Rules or the CIM Uniform Rules. “

## (ii) RATIONALE

The UK considers that international railway traffic has to be strictly linked to the use of an international train path and should not refer to anything beyond that. Further, a reference to the CIV/CIM Uniform Rules makes clear that the definition of “international railway traffic” is linked to the use of train paths with the purpose of allowing the carriage of CIV and CIM contracts.

## 3. DEFINITION - ‘carrier’

The UK notes the proposed definition of carrier as meaning:

“the natural or legal person the principal business of which is to carry persons and/or goods by rail in international traffic 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.”

## (i) PROPOSAL

The UK proposes that the definition be amended to:

“‘Carrier’ means the natural or legal person which carries persons and/or goods by rail in international traffic under the CIV or 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.”

## (ii) RATIONALE

The proposed definition of ‘carrier’ relates to the commercial use of infrastructure – ie the carriage of persons or goods – by means of international carriage and the reference to the CIV/CIM Uniform Rules prevents the creation of a separate regime which was not the intention.

## 4. ARTICLE 8 (c)– LIABILITY OF MANAGER

The UK notes the proposed amendment that

“The manager shall be liable ...for pecuniary loss resulting from damages payable by the carrier in transport by a train performing international railway traffic, caused to the carrier or to his auxiliaries during the use of the infrastructure and having its origin in the infrastructure.”

## (i) PROPOSAL

The UK propose that the above wording is amended to

“The manager shall be liable ... for pecuniary loss resulting from damages payable by the carrier under the CIV and CIM Uniform Rules, in transport by a train performing in-

ternational railway traffic, caused to the carrier or to his auxiliaries during the use of the infrastructure and having its origin in the infrastructure. “

(ii) RATIONALE

Removing the reference to CIV and CIM would mean a potential wider and unforeseeable financial liability of the infrastructure manager in the event of an extension of scope to trains or individual railway vehicles not carrying either passengers or freight.