



# Bulletin

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**OTIF**

Organisation intergouvernementale pour les transports internationaux ferroviaires  
Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr  
Intergovernmental Organisation for International Carriage by Rail

Unified railway law to connect Europe, Asia and Africa



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FS - Italiane  
UIC



**H**istorically, OTIF's mission has been to facilitate international rail transport. Developments in the flow of trade between Europe and Asia now put this matter in a different light. The concept of the new Silk Route, supported both by China and the countries of Central Asia, is based on the emergence of a network of land routes that is helping to support the development of trade.

In this respect, it would be wrong to view this project as necessarily leading to a preferred route or axis. Whether it is successful will be gauged more by its ability to create effective connections between the various countries. This condition is particularly important in view of the fact that rail freight transport is most efficient when traffic is symmetrical, thus reducing the need to run empty trains.

The Secretariat of OTIF uses a pragmatic approach to try to develop the necessary legal tools.

In the article on the Committee of Technical Experts held in June 2016, you can therefore read the preliminary discussions on a concept for interoperability beyond the European Union. Developed by and for the main actors, it should in due course help improve the competitiveness of rail transport over very long distances, while maintaining harmonisation between the regulations of OTIF and the EU. The work on the contract of use of infrastructure (CUI) is being carried out as a complementary approach and should provide a legal basis for a uniform contract for the allocation of train paths for international traffic.

Lastly, I should like to welcome the signing of an MoU with the National Railway Administration (NRA) of China on 12 July 2016. The MoU concerns cooperation between OTIF and the NRA. I would like to see this as a sign that our commitment towards a global approach for international traffic is becoming more widely recognised.

**François Davenne**

## CHINA AND OTIF SIGN A PRELIMINARY AGREEMENT

On 12 July 2016, the Secretariat of OTIF had the pleasure of welcoming representatives of China's National Railway Administration (NRA) to Berne.

In the context of China's "belt and road" project, the NRA expressed interest in the Organisation and the legal framework offered by COTIF: a harmonised legal framework that makes it easier to cross borders.

The event took place at OTIF's headquarters in Berne in the presence of Mr Lu Dongfu, the head of the National Railway Administration and Vice Minister of Transport, Mr Chu Feiyue, the Director General of the Equipment Monitoring Department, Mr Mi Long, the Director General of the Construction Monitoring Department, Mr Wang Jiayu, the Deputy Director General of the External Relations Department and Mr Wang Jianfei, the Deputy Director of the General Affairs Department.

Mrs Elizabeth Hirst, Managing Director of Regulis SA, Mr Howard Rosen, the Chairman of the Rail Working Group, and Mr Erik Evtimov, the Deputy Secretary General of CIT, also attended.



The Secretariat of OTIF gave presentations on the various advantages of the legal and technical instruments of the Convention concerning International Carriage by Rail (COTIF). Participants had the opportunity to discuss the main challenges of Euro-Asian rail

traffic in the context of the new Silk Route and working links were established between the two institutions.

Later in the day, the NRA and OTIF signed a Memorandum of Understanding (MoU) which sets out the initial elements of their cooperation, particularly:

1. Conducting exchanges in terms of regulations on through railway transport, railway technical standards, transportation corridor layout, etc.;
2. Promoting use of the common CIM/SMGS consignment note in railway through transport between Asia and Europe, studying problems that occur in using the common consignment note and finding solutions to such problems;
3. Studying problems that occur in the operation of Sino-European freight trains and finding solutions to such problems.

The terms of this cooperation should be seen against the background of the development and improvement of rail transport between Asia and Europe.

The MoU marks the beginning of cooperation between China and OTIF. It

The Chinese National Railway Administration and Railway Company were set up to separate administrative and commercial issues in the rail sector.

The National Railway Administration is responsible for researching railways policy, the development plan, institutional reform and other administrative issues that were the remit of the former Ministry of Railways, and is in charge of establishing technical standards and controlling railway safety and the quality of operations and construction.

Another of its tasks is to establish standards for the Chinese railway industry and intergovernmental cooperation for the railways.

is an expression of China's interest in OTIF's legal and technical tools. It also signals China's willingness to examine the possibility of perhaps acceding to OTIF.

The Secretariat welcomes this agreement, which is a founding step for cooperation with the People's Republic of China.



## WITHDRAWAL OF THE CZECH REPUBLIC'S RESERVATIONS

On 29 July 2016, the Czech Republic submitted an instrument to withdraw its reservations with immediate effect. The instruments were sent to the Secretary General of the Intergovernmental Organisation for International Carriage by Rail (OTIF).

On 8 December 2008, the Czech Republic declared in accordance with Article 42 § 1 of the Convention concerning International Carriage by Rail (COTIF) that it would not apply:

- The Uniform Rules concerning Con-

tracts of Use of Infrastructure in International Rail Traffic (CUI UR, Appendix E to COTIF).

- The Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic (APTU UR, Appendix F to COTIF).

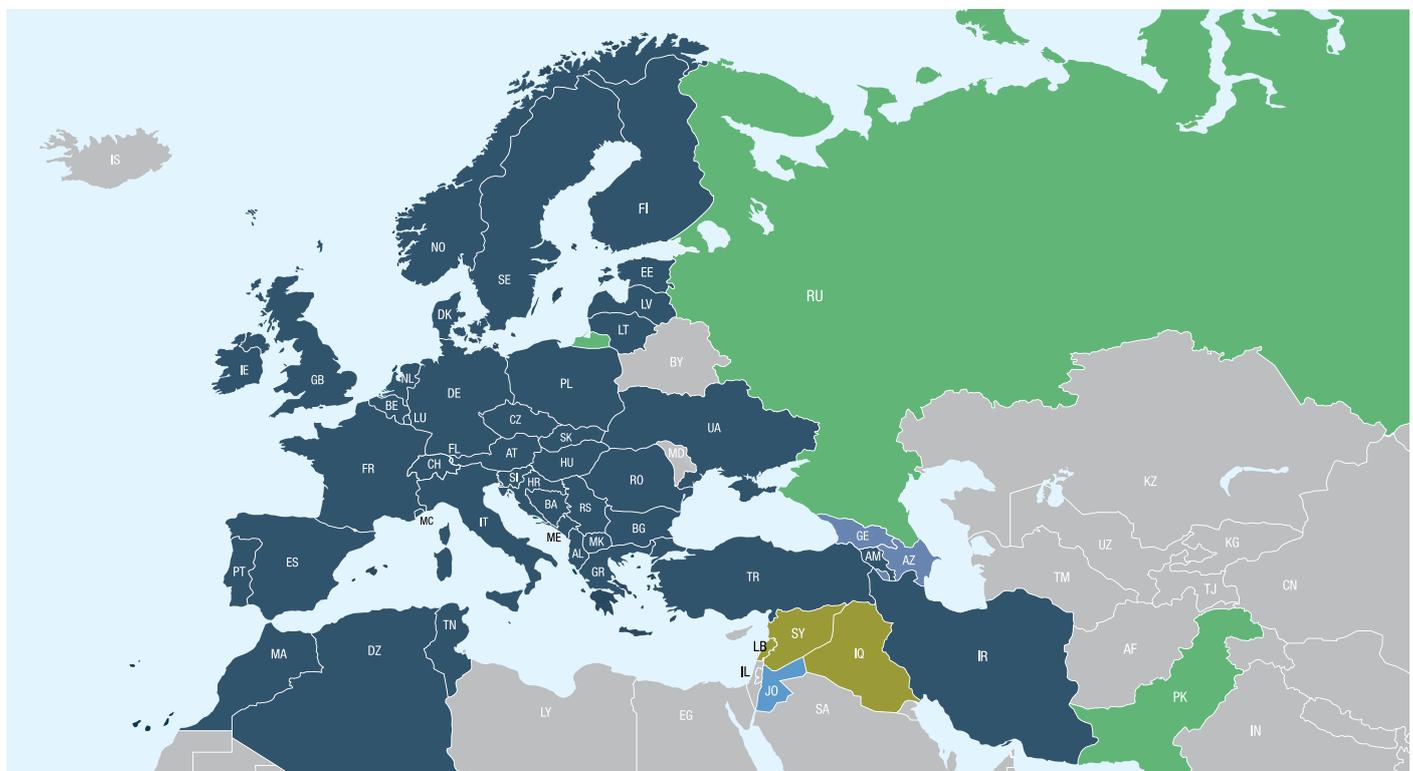
- The Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic (ATMF UR, Appendix G to COTIF).

As a result, since 29 July 2016, the CUI, APTU and ATMF Uniform Rules apply on around 9,500 km of additional railway lines, i.e. the entire Czech railway network.

The Czech Republic is a very active Member State within OTIF and is involved in the development of international railway law. The Secretariat of OTIF welcomes this withdrawal, which now means that the Uniform Rules of COTIF now apply uniformly across the entire territory of Europe.

### Geographical scope of COTIF and its Appendices

Situation on 15 August 2016



## OTIF IS A STAKEHOLDER IN THE EURO-ASIAN PROJECT ON POSTAL ITEM TRANSPORTATION BY RAIL

In March 2016, the International Rail Transport Committee (CIT), the Universal Postal Union (UPU) and the Coordinating Council on Trans-Siberian Transportation (CCTT) signed a Memorandum of Understanding (MoU). The aim of this MoU is to explore the feasibility and implementation of a project to send postal items by container train from China to Europe, and vice versa.

In this context, the Secretary General of the CCTT, Mr Bessonov, invited the Secretary General of OTIF, Mr Dav-

enne, to take part in a seminar entitled "International carriage of postal items by rail" held on 24 and 25 April 2016 in Moscow.

There were a lot of participants, whose diverse backgrounds reflected the challenges of the project: experts, representatives of the railways, the postal services (UPU), customs (World Customs Organization) and transport and logistics companies from China, Kazakhstan, Russia, Belarus, Poland and Germany.

At this seminar, participants were able to assess the first pilot test carried out.

Following the conference, participants adopted a declaration which reinforces the value of the project and establishes a work programme.

The Secretariat of OTIF is pleased to take part in this project as an observer, adviser and legal expert.



## SPEECH IN SUPPORT OF STRENGTHENED COOPERATION

The 44<sup>th</sup> session of the Ministers' Conference of the Organization for Co-operation between Railways (OSJD) was held from 7 to 10 June 2016 in Baku, Azerbaijan.

This is an important, formal OSJD meeting, which provides the opportunity to take stock of the previous year, review the institutional work that is underway and adopt texts and decisions.

Mr Davenne, the Secretary General of the Intergovernmental Organisation for

International Carriage by Rail (OTIF), was invited to give a speech. He was honoured to be invited and underlined the importance of cooperation between OSJD and OTIF:

"Let me first congratulate OSJD on its 60 years of work for the rail community. For me, my presence here in Baku today is a symbol of the complementary nature of the approaches of OSJD and OTIF.

Firstly, since 2015 Azerbaijan has been

the 50<sup>th</sup> member of our Organisation, demonstrating that rail development is about building bridges between our various Member States. Here in Baku, where Europe and Asia meet in harmony, we are all committed to creating seamless rail traffic. We all know that developing rail transport between Asia and Europe will not only foster economic relations, but will also promote carbon efficiency in transport and will create better mutual understanding.

OTIF and OSJD are, in a way, sister or-

rganisations. History has produced separate systems for rail transport, but what we share is stronger than what separates us.

In this framework, the common position signed between OSJD and OTIF in 2003 is a key element for continuing our successful collaboration.

We are collectively dealing with regulations, but finding the momentum to develop a level playing field for rail

transport between Europe and Asia will involve a common vision. “ He then turned to the future, reminding the conference that:

“Based on our common position, OSJD, CIT and OTIF have achieved the development of a common consignment note that is widely used for traffic on the Euro-Asian corridors.

I am sure that this partnership will increase and that we will find a way to im-

prove our coordination on other topics, such as uniform freight contracts and shared models for data exchanges.

Indeed, the future of rail transport is certainly digital and if the sector wants to take advantage of these new opportunities for growth, it will have to develop its own global regulations.

Let me end this speech by wishing every success to the process towards a new OSJD convention.”

## UIC GLOBAL RAIL FREIGHT CONFERENCE



Days, The International Union of Railways (UIC) organised the 5<sup>th</sup> edition of the Global Rail Freight Conference (GRFC) in Rotterdam on 22 and 23 June 2016.

There were some clear messages from the conference: in future, rail freight will have to be more customer-focussed, achieve more complementarity and cooperation and be more interconnected.

In the first session, Mr Davenne gave a speech entitled “From Shanghai to Rotterdam: the landbridge concept 10 years ongoing”. He also spoke during the concluding session of the conference.

He particularly emphasised the role of the Convention concerning International Carriage by Rail (COTIF) and its Appendix B (CIM). COTIF provides the backdrop for a legal framework that enables the sector to facilitate international trade, develop technical interoperability and create model contracts, such as the General Contract of Use for Wagons (GCU): this is a multilateral contract based on COTIF and its Appendix D (CUV).

The 5<sup>th</sup> edition of the GRFC was a success with its specific, high-level exchange of ideas.

**U**nder the patronage of the Dutch Ministry of Infrastructure and the Environment and in cooperation with the European Commission’s TEN-T



## “INTEROPERABILITY BEYOND THE EU”: A PROJECT TO BE FOLLOWED UP

Interoperability beyond the EU is a project being led by the Secretariat of OTIF. The project aims to make interoperability a reality for the Member States of OTIF (Bulletin No. 2-2016 page 15).

The project has been presented to various partners, such as the European Union Agency for Railways, and was also the subject of a presentation given at the 88<sup>th</sup> General Assembly of the International Union of Railways (UIC) on 6 July.

At a working meeting last winter, Mr Jean-Pierre Loubinoux, the Director General of UIC, invited Mr Davenne, the Secretary General of OTIF, to present this project to all the UIC members.

The Secretary General of OTIF therefore explained this project, which



is of great interest to the members of UIC, on 6 July. He also had the opportunity to emphasise the close cooperation that exists between

UIC and OTIF.

The Secretary General welcomed this invitation.

## OTIF, THE ETCR SEMINAR AND THE COLLEGE OF EUROPE

Since 2013, the Secretariat of the Intergovernmental Organisation for International Carriage by Rail (OTIF) has contributed to the European Training Centre for Railways Seminar (ETCR).

This high level, high quality seminar takes place each year at the prestigious College of Europe in Bruges, Belgium.

Mr Bas Leermakers, the head of the OTIF Secretariat's technical department, gives a speech there every year and presents the Organisation and the Convention concerning International Carriage by Rail (COTIF). He then takes a question and answer round with participants.

This two hour course provides a perspective by giving the European

seminar an international dimension that goes beyond the EU.



## 9<sup>TH</sup> SESSION OF THE COMMITTEE OF TECHNICAL EXPERTS

The CTE convened for its ninth session on 7 and 8 June 2016 in Bern. The meeting was structured around three main groups of subjects; firstly, reporting on developments since the last session in 2015, followed by the adoption of amendments to the existing rules and finally the work plan for the coming period. This article describes the main results.

In particular, it was decided to launch a framing project on interoperability beyond the EU, which will entail close partnership with the Agency and European Commission on the one hand, and the close involvement of OTIF's non-EU Member States on the other.

### Developments since the previous session

The OTIF Secretariat informed the CTE about the work carried out by the standing working group technology (WG TECH) since the previous CTE session that took place in June 2015.

The very good cooperation between the European Union Agency for Railways (formerly the European Railway Agency), the European Commission, WG TECH and the OTIF Secretariat was highlighted. This cooperation enabled non-EU Member States to be informed of all relevant EU developments and their interests to be represented at EU level.

In terms of substance, the CTE was informed about the subjects discussed by WG TECH, such as the development of specifications for interchangeable passenger coaches and how the telematic applications for freight (TAF) could be incorporated into COTIF.

The following Member States had changed their application of APTU or ATMF since the previous session:

- Sweden (ratified COTIF 1999 without reservations)
- Ireland (ratified COTIF 1999 without reservations)
- France (repealed reservations for ATMF with effect from 1.7.2015)
- Slovakia (repealed reservations for APTU and ATMF with effect

from 27.8.2015)

- United Kingdom (repealed reservations for APTU and ATMF with effect from 28.8.2015)
- Monaco (repealed reservations for ATMF with effect from 15.1.2016).

### Adoption of amendments to the existing rules

The WG TECH had prepared proposals for amendments to the uniform technical prescriptions for freight wagons (UTP WAG) and for the common safety method on risk evaluation and assessment (UTP GEN-G).

The CTE adopted the proposed amendments to the UTP WAG, which concerned in particular the introduction of the interoperability constituent (IC): "Friction element for wheel tread brakes" (brake blocks), the assessment methods for this IC, the validity of its examination certificates and the transitional provisions related to the new IC. This amendment allows assessing entities to certify composite brake blocks, for example, according to harmonised assessment methods.

In addition to this significant change the following subjects were also covered by the amendment:

- Clarification of the use of the "GE" marking in Appendix C. This marking is used by railway undertakings to indicate the technical features of freight wagons that can be used internationally.

### The Committee of Technical Experts

The Committee of Technical Experts (CTE) is one of five committees of OTIF in accordance with Article 13 COTIF. Its competences are set out in Article 20 COTIF and include in particular the adoption of Uniform Technical Prescriptions and other matters in connection with APTU and ATMF. All states that apply APTU and ATMF are members of the Committee; at the time of writing, this amounts to 42 states.

The CTE convened for the first time in July 2006, only days after COTIF 1999 entered into force. Roland Bacher from Switzerland has chaired all the CTE sessions to date.

30 OTIF Member States were present or represented at the 9<sup>th</sup> session of the Committee, of which 29 had the right to vote. This meant there was a quorum. Azerbaijan attended the meeting for the first time, but did not have voting rights as it did not apply Appendices F and G to COTIF. CER, the Community of European Railway and Infrastructure Companies, was also represented.

- Improvement of the consistency between EU and OTIF provisions on axle traceability in point 4.2.3.6.4.

- Reference to a new conformity assessment procedure CV (in-service testing). This procedure is described in UTP GEN-D (Assessment procedures) and can be used in the context of the UTP WAG for the assessment of brake blocks.
- The references to standards were updated.

The CTE subsequently adopted amendments to the UTP GEN-G on a common safety method for risk evaluation and assessment. Following equivalent changes in the EU, the aim of these changes is to facilitate the mutual recognition between States of assessment results relating to structural subsystems and vehicles, particularly in cases where explicit risk estimation is used. In such cases, harmonised design targets could be used to demonstrate the acceptability of risks arising from failures in the functions of a technical system. Furthermore, in order to distinguish the acceptance of risks associated with technical systems from the acceptance of operational risks and the overall risk at the level of the railway system, the term “risk acceptance criteria” with respect to technical systems was changed to “harmonised design targets” for such technical systems.

Following the CTE's decisions, the OTIF Secretariat notifies them and the amendments concerned in accordance with the process described in Article 35 §§ 3 and 4 of the Convention<sup>1</sup>. This notification was given on 23 June 2016. The provisions will enter into force on the first day of the sixth month following the month in which notification was given, i.e. 1 December 2016.

Before they enter into force, the OTIF Secretariat will publish the amendments and a consolidated version of the UTPs on the OTIF website. The consolidated versions will be for information only.

The Secretariat drafted an explanatory document on UTP GEN-D and submitted it to the CTE for review. The UTP GEN-D sets out the procedures for assessing conformity with UTPs. The aim of the explanatory document is to help the reader understand the principles of the UTP GEN-D. The CTE reviewed and approved the document, after which the Secretariat published it on the OTIF website.

### Work plan for the coming period

The CTE welcomed the work programme for 2016/17 proposed by the Secretariat in a paper.

The work programme was structured around five main groups of activities.

1. Working within a coordination framework, in particular to represent the non-EU Member States' interests in relevant developments at EU level.
2. Revisions and amendments to existing rules, in particular to follow closely the work of ERA on EU provisions that have an equivalent in COTIF, such as the WAG TSI, the LOC&PAS TSI and the provisions concerning the Entity in Charge of Maintenance.
3. Keeping a watch on the application of technical provisions and in particular assisting Member States in the correct application of the technical provisions of COTIF.
4. Interdisciplinary coordination, in particular with RID experts.
5. General roadmap for the development of technical regulations. With regard to this point, developments relating to the UTP TAF and interoperability beyond the EU are of major importance.

### Composite brake blocks:

Traditionally most freight wagons are equipped with cast iron brake blocks that brake by acting on the wheel's running surface. An unwanted effect of cast iron brake blocks acting on steel wheels is that the wheel's running surface roughens. Using wagons with rough wheels causes vibrations between the wheels and the rails, resulting in running noise.

Replacing cast iron brake blocks by composite brake blocks significantly reduces the roughness of the wheels, thus resulting in much less running noise.

The harmonised assessment methods for composite brake blocks are aimed at ensuring that new brake blocks are assessed in a harmonised way in order to ensure they can be safely used under all defined operational and climatic conditions.

### UTP TAF

The CTE mandated the WG TECH to prepare a proposal for CTE 10 to transpose the telematic applications for freight (TAF TSI) into a UTP and to make reference to the appendices that are published and regularly updated on ERA's website, including the data and message model in XML files. This way the legal provisions will become enshrined in COTIF, but the IT provisions will be managed by ERA. Provisions should be agreed so that the non-EU Member States of OTIF can be involved in the development of these IT provisions.

Implementation should not be forced upon non-EU Member States; the UTP TAF should instead ensure that if IT investments and developments in the scope of the UTP TAF

<sup>1</sup> This means that “the modifications shall enter into force for all Contracting States on the first day of the sixth month following that during which the Secretary General has given notice of them to the Member States”.

are made, they are done in a harmonised and compatible way, so as to facilitate international rail traffic.

### Interoperability beyond the EU

COTIF is a multilateral instrument, supporting states, railway actors and railway customers in international railway traffic. COTIF covers transport contracts, contractual conditions of use of vehicles and infrastructure, regulations for the transport of dangerous goods and requirements for the international admission and use of vehicles. COTIF therefore provides fully for the exchange of freight or passenger vehicles across borders. However, COTIF does not cover all the requirements needed for the operation of complete trains across borders. This particular type of international railway traffic, where a railway undertaking runs its train on a foreign state's rail infrastructure, is referred to as 'interoperability'.

For the following reasons, the development of interoperability within the scope of COTIF would best be carried out by means of a new Appendix to COTIF:

- Firstly, the scope of the existing Appendices does not fully cover interoperability and the associated operational and safety provisions.
- Secondly, not all Member States of OTIF may be interested in or ready for interoperability, which implies having foreign trains operated on

their territory. A new Appendix to COTIF would allow each Member State to choose whether or not to apply the new Appendix.

In line with the article on this subject in the *previous edition of the Bulletin*, the Secretariat drafted a paper for the CTE suggesting the further development of COTIF in order to support interoperability. The CTE discussed and supported the general ideas set out by the Secretariat and mandated the WG TECH to:

- Identify and analyse the conditions for realising the elements related to interoperability, based on a first draft to be provided by the Secretariat
- Evaluate which elements are suitable to be covered in international law and split into elements that can be covered by APTU/ATMF and those which would have to be included in a new Appendix to COTIF
- Draft a roadmap, outlining the main elements and their interactions
- Report the findings to the next CTE.

Although none of the existing OTIF organs covers this subject, it would be best to coordinate the preparatory work and draft the new Appendix in the Committee of Technical Experts, seeking legal advice where needed. This is because the subject

of interoperability, including safety and operational provisions, is more closely aligned with the expertise of the Committee of Technical Experts than with that of any other standing committee. Within the EU too, the subjects of vehicle authorisation (in parallel with APTU and ATMF), interoperability, safety and operations are dealt with by a single committee (RISC). This symmetry between the EU and OTIF committees will facilitate coordination. As a second step, the CTE will present its ideas to the Revision Committee, after which they can be discussed and proposals could be submitted to the General Assembly for decision.

As acknowledged by the Chairman, Roland Bacher, the 9<sup>th</sup> session of the CTE had achieved a good balance between the exchange of information on ongoing developments, the adoption of provisions and the discussion of future developments.

The 10<sup>th</sup> session of the CTE is scheduled to be held on 13 and 14 June 2017 in Bern.

The last session of the WG TECH was hosted by the European Union Agency for Railways in Lille on 7 and 8 September 2016 and initiated the work on interoperability beyond the EU.

All documents, including invitations and agendas for the CTE and WG TECH are available on the OTIF website under: [www.otif.org](http://www.otif.org) > technology.

*Bas Leermakers*

## THE FOURTH RAILWAY PACKAGE – “TECHNICAL PILLAR”

The fourth railway package concerns developments in the European Union’s railway law. These developments are a result of the fact that both the Interoperability Directive and the Safety Directive have been replaced by the fourth railway package.

In order to safeguard the interests of all the OTIF Member States that apply Appendices F and G to the COTIF Convention, the equivalence that has been observed to date should continue to be maintained.

This might make amendments to Appendices F and G to the Convention necessary in future.

This article describes the technical pillar and provides an overview of the provisions of the three sets of legislation that have been published with regard to:

- ✓ the role of the Agency,
- ✓ interoperability, and
- ✓ railway safety.

The fourth railway package was published on EUR-Lex in Official Journal L 138.

The role and challenge for the OTIF Secretariat is and will continue to be the active coordination of these regulations with COTIF.

### First set of regulations: “European Union Agency for Railways”

The first set of regulations, in the form of a Regulation, strengthens the role of the European Union Agency for Railways (EUAR). The Agency will act as a one stop shop. It will be given the role of an EU authority with the following particular tasks:

- issuing approvals for placing railway vehicles and vehicle types into service,
- issuing single safety certificates for railway undertakings,
- examining national provisions, with the right to abolish them if they are not necessary,
- functioning as the ERTMS system authority, and
- as the system authority for telematics,
- aspects of training for locomotive

drivers,

- administering various central registers,
- aspects concerning replacement parts.

Additional tasks, in which the Secretariat of OTIF is already actively involved, include international aspects and the coordination thereof. This relates firstly to coordinated processes in terms of the tasks referred to above and the carriage of dangerous goods by rail.

This Regulation therefore affects Appendix C to COTIF (RID) as well. By these means, the EU is pursuing the aim of ensuring, for the carriage of dangerous goods, that coordinated developments take place in line with the provisions concerning safety and interoperability in the rail sector.

Article 44 of this Regulation is relevant in this respect.

In this Article, the EU mandates the Agency to “strengthen coordination with international organisations on the basis of concluded agreements”.

The Agency will “develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries competent in matters covered by Agency activities”.

This is necessary “in order to keep up with scientific and technical developments and to ensure promotion of the Union railways legislation and standards”.

### European Union Agency for Railways

Regulation (EU) No 2016/796 (the first regulation of the fourth railway package) establishes a European Union Agency for Railways. This Regulation also repeals the previous Regulation (EC) No 881/2004 (“Agency Regulation”).

In practice, this means that the **European Railway Agency (ERA)**, which was set up under the “Agency Regulation” in 2004, has now become the **European Union Agency for Railways**.

In the legal texts and in this article, the European Union Agency for Railways is referred to as **the Agency**.

### Second set of regulations: “interoperability of the rail system”

The second set of regulations, in the form of a directive, concerns interoperability.

This repeals, inter alia, the well-known Directive 2008/57/EC that has applied up to now.

This “new” interoperability directive is aimed more uniformly and consistently at:

- the Technical Specifications for Interoperability (TSIs),
- the Interoperability Constituents (IC) and their conformity,
- the subsystems and their conformity,
- placing on the market and placing

in service (e.g. of ERTMS vehicles, fixed and mobile installations and the registration thereof),

- conformity assessment bodies,
- the various registers (e.g. for infrastructure, vehicle numbering and vehicle types).

However, the directive also defines the scope, validity and definitions of the above-mentioned individual aspects and their interfaces and describes transitional provisions.

The directive contains six annexes, the first four of which define the above-mentioned aspects with regard to

- railway system components (vehicles and network)
- applicability of the subsystems
- essential requirements
- verification (conformity)

as in the structure of the previously applicable interoperability directive.

Annexes V and VI list the directives that have been repealed, implementation **deadlines and the table of correspondence between the previously applicable interoperability directive 2008/57/EC and this directive.**

### Third set of regulations: “railway safety”

The third set of regulations, in the form of a directive, concerns railway safety.

In connection with this, in addition to the “interoperability directive” 2008/57/EC referred to above, the so-called “safety directive” 2004/49/EC has also been repealed.

This new directive covers in particular the terminology and procedure concerning:

- common safety targets (“CST”),
- common safety methods (“CSM”),
- the use of common safety indicators (“CSI”).

The provisions of this directive are aimed at the development and improvement of safety in the rail system

and better market access for railway services.

Infrastructure managers and railway undertakings both introduce a safety management system in order to ensure that the railway system

- can at least meet the CST and
- satisfies the safety requirements laid down in the TSIs and
- that the relevant parts of the CSM and
- the notified national provisions are applied.

The single safety certificate is intended to prove that the railway undertaking concerned has introduced a safety management system and is able to operate safely in the geographical area of activity planned.

The Agency issues the safety certificates. This is to ensure uniformity.

For the non-EU Member States of OTIF, it should be mentioned that Chapter III, paragraph 9 of this directive allows traffic “close to the border” of the EU from third countries without a single safety certificate being required.

For this, an “appropriate level of safety” has to be ensured. This approach is based on agreements.

In addition to infrastructure managers and railway undertakings, this directive also requires that it be applied by entities in charge of maintenance.

It is also stipulated here that in addition to EU Regulation No 445/2011 on “a system of certification of entities in charge of maintenance” (the ECM), which still applies, the Agency should examine the application and extension of this system to so-called maintenance workshops, as well as the certification of entities in charge of maintenance responsible for vehicles other than freight wagons.

National safety authorities will continue to monitor the continuous compliance with the obligation that railway undertakings and infrastructure managers have to apply a safety management system.

Chapter 5 of this directive requires the Member States to ensure that the investigation body referred to in the

The fourth railway package is based on a “market pillar” and a “technical pillar”.

#### The “market pillar”

The aim of the “market pillar” is to liberalise the market. The focus here is on opening the domestic passenger transport markets and achieving better structures and transparency for infrastructure managers.

What should be addressed here is the integrated rail system and hence the separation of infrastructure and traffic.

#### The “technical pillar”

The aim of the “technical pillar” is to simplify processes in order to ensure interoperability and safety in rail transport.

While discussions on the “market pillar” are still ongoing, the “technical pillar” was published in May 2016 in Official Journal L 138 following the successful legislative procedure in the EU.

This “technical pillar” comprises three sets of regulations. The details of the regulations contain various transitional provisions for their implementation. One of the most important is that the one stop shop described in more detail in this article should be operational by no later than 16 June 2019.

directive carries out an investigation after every serious accident in the rail system. The aim of the investigation is to improve railway safety and prevent accidents.

Annexes IV and V list the directives that have been repealed, implementation **deadlines and the table of correspondence between the previously applicable safety directive 2004/49/**

EC and this directive.

The fourth railway package is an important step towards the creation of a single railway network in the EU.

At the same time, the Agency's new role will strengthen its approaches towards non-EU States. This demonstrates how important it is to achieve active coordination and harmonisation

of both the Agency's and OTIF's strategies.

*Margarethe Koschmider*

## 6<sup>TH</sup> SESSION OF THE RID COMMITTEE OF EXPERTS' STANDING WORKING GROUP (BERNE, 23 AND 24 MAY 2016)

The sixth session of the RID Committee of Experts' standing working group was held in Berne on 23 and 24 May 2016 under the chairmanship of Mr Helmut Rein (Germany). 18 States, the European Union, the European Union Agency for Railways, the Committee of the Organization for Cooperation of Railways (OSJD) and 6 non-governmental international organisations were represented at this meeting

### Approval of amendments to RID to enter into force on 1 January 2017

For the meeting of the standing working group, the Secretariat of OTIF had prepared a summary of all the amendments adopted in this biennium. In order to make sure that the 2017 edition of RID was harmonised with ADR, the working group also had to examine the final amendments adopted for ADR by the 100<sup>th</sup> session of WP.15 (Geneva, 9 – 12 May 2016).

The standing working group adopted the proposed amendments with minor modifications. For RID, the working group rejected the obligation included in ADR for the ADR Contracting Parties to make available to the UNECE Secretariat official translations in their national languages of the instructions in writing for publication on the UNECE website. In this context it was pointed out in particular that unlike ADR, no mandatory model of the instructions in writing was prescribed in RID and no sanctions were laid down in the event that a State did not notify its official translation.

### Check-lists for gas tank-wagons

In the 2013 edition of RID, a reference

The last session of the 2015/2016 biennium dealt mainly with the final amendments for the 2017 edition of RID. New issues, such as the introduction of check-lists for gas tank-wagons and the appointment of dangerous goods safety advisers by tank-wagon operators were also addressed, but will need to be discussed further. Participants were also informed of the results of the work carried out by the working groups on derailment detection and tank and vehicle technology. Following the meeting of the standing working group, the 54<sup>th</sup> session of the RID Committee of Experts was held on 25 May 2016, at which the amendments for the 2017 edition of RID received final approval.

to the check-lists published by the European Chemical Industry Council (CEFIC) for tank-wagons for the carriage of liquids was included under the obligations for fillers and loaders. At the meeting of the standing working group, Italy also proposed check-lists for gas tank-wagons.

In view of the existing provisions (RID 4.3.3.4), the industry representatives

were of the view that it should first be checked whether there was any need to take action in this respect. In contrast, the government representatives agreed that check-lists for gas tank-wagons could certainly be useful. They should have the same legal quality as the check-lists for tank-wagons for the carriage of liquids and should include a disclaimer.

It was agreed to continue developing the check-lists for gas tank-wagons at an informal working group to be held in Italy on 27 and 28 October 2016.

### Appointment of dangerous goods safety advisers by tank-wagon operators

RID Chapter 1.8 requires each undertaking whose activities include the carriage, or the related packing, loading, filling or unloading of dangerous goods by rail, to appoint one or more safety advisers for the carriage of dangerous goods. The European Association of Dangerous Goods Safety Advisers (EASA) proposed that this obligation should also apply to tank-wagon operators.

Several delegates pointed out that the definition of tank-wagon operator did not

cover the undertaking that was directly involved in using the tank-wagon. A dangerous goods safety adviser did not seem to improve safety for the abstract person of the operator.

In addition, the working group saw no reason to treat tank-wagon operators differently from tank-container and portable tank operators. The meeting therefore recommended to the representative of EASA that he should submit a better justified proposal to the RID/ADR/ADN Joint Meeting.

### Conclusion of the work of the working group on derailment detection

At the third session of the RID Committee of Experts' standing working group (Berne, 20 and 21 May 2014), a new working group was set up to discuss all the issues in connection with the introduction of derailment detectors. Taking into account technical and scientific progress, derailment detectors and alternative measures were to be examined in order to enable the timely detection of derailments and to limit their impact. The working group met five times in all. At its last session (Berne, 19 and 20 April 2016), a final report for the RID Committee of Experts' standing working group was prepared.

It was decided that the use of mechanical detectors should remain voluntary.

The majority of delegations preferred the development of electronic technologies on the basis of reliable alarm signals.

To maximise the cost-effectiveness of electronic detectors, a train condition monitoring function should also be integrated, which should be able to report different levels of alarms before a derailment occurs, thus allowing derailments to be prevented in addition to detecting them.

In order to ensure the interoperability of derailment detection systems, the European Union Agency for Railways should develop Technical Specifications for Interoperability for both types of derail-

ment detection (mechanical and electronic) over the next two years. The Secretariat of OTIF and dangerous goods experts from the RID Contracting States should be involved in this work.

The European Commission should implement the new Technical Specifications for Interoperability in 2019. OTIF's Committee of Technical Experts should then adopt equivalent provisions in the form of Uniform Technical Prescriptions.

### Results of the working group on tank and vehicle technology

The chairman of the working group on tank and vehicle technology informed the standing working group of the results of the meeting held in Hamburg in April 2016. The working group's mandate was to look into the measures newly applicable to North American tank-wagons following several railway accidents involving crude oil, in order to assess whether they were relevant to European rail traffic (see also Bulletin 1/2016).

The working group checked in detail the following tank-related measures:

- Increasing the shell thickness
- Fire protection insulation and thermal insulation
- Head shields over the entire tank ends
- Protection of top service equipment
- Devices to protect against the unintended opening of bottom valves.

It was pointed out that the newly applicable provisions in North America had to be seen in the particular economic context. They were linked to the increasing extraction of crude oil by fracking in North America. Unlike the USA and Canada, no huge increase in the carriage of Class 3 substances was to be expected in Europe in the near future. In addition, the length of freight trains and hence their overall weight was considerably higher in North America than in Europe. The self-supporting tank construction of American tank-wagons also meant

that when designing the tank, the tractive and compressive forces to be absorbed by the tank would have to be taken into account.

After analysing the various measures, the working group saw no need to amend the existing European provisions. The relevant provisions of RID were sufficient and were adapted to European requirements. The fire protection insulation measures would be analysed at RID/ADR/ADN Joint Meeting level by the BLEVE working group.

The new operational measures, such as the risk-based routing of trains or speed reductions for freight trains, would also offer no reason to amend the provisions of RID. The subject of speed reduction had already been discussed in the past, and it had been pointed out that RID Chapter 1.9 already gave States the possibility of imposing speed limits in particular areas. A general speed limit for dangerous goods trains would lead to major operational difficulties in passenger and freight traffic and was not therefore recommended.

### Any other business

#### Election of the new chair

As the current chairman, Mr Helmut Rein, was stepping down, the standing working group had to elect a new chair. The long-time RID expert and former deputy chair, Mrs Caroline Bailleux from Belgium, was elected to the chair until further notice, and Mr Colin Bonnet from Switzerland was elected as deputy chairman.



*Mrs Caroline Bailleux representing Belgium*

#### Departure of Mr Helmut Rein as the chairman

At the sixth session of the standing working group, Mr Helmut Rein acted as chairman for the last time. Over the last

17 years, Mr Rein had led the negotiations unerringly and in a structured manner and had ensured stability in the ever changing working environment of the RID Committee of Experts and later, its standing working group. He made a decisive contribution to the development of new working methods, particularly after the European Union had acceded to COTIF.



*Mr Helmut Rein chairing the RID Committee of Experts*

#### Next session

The seventh session of the RID Committee of Experts' standing working group will be held in Prague from 22 to 24 November 2016.

*Katarina Guricová*

## CUI UR WORKING GROUP: PREPARATION OF A DRAFT TEXT FOR THE REVISION COMMITTEE

The scope of the CUI UR is laid down in Article 1. After the Secretary General had been advised by various people that the scope of the CUI UR needed to be clarified, he set up a working group to draft a text to propose new wording for this provision. This working group was also asked to review the liability provisions, which form the essential core of the CUI UR, in light of the newly defined scope. It goes without saying that like all the other Appendices to COTIF, Appendix E only applies to international railway traffic. However, in view of the fact that infrastructure capacity is allocated at national level, the definition of international railway traffic has proven to be a challenge for the purposes of the CUI UR. The CUI working group had to meet four times before, on the basis of the proposals received from various Member States, a text could be drafted which the Secretary General could submit to the Revision Committee for further consideration.

**B**efore the end of 2014, the Secretary General initiated a working group to prepare a partial revision of the CUI UR (Appendix E to COTIF) geared towards the scope and liability provisions. Leaving aside a few amendments to the Explanatory Report, these are two issues that were not looked at in the first partial revision of the CUI UR in 2009. The most important Articles covering these subject areas, i.e. Articles 1, 8 and 9 CUI, can only be amended by a decision of the General Assembly. The anticipated new wording of the scope will also entail amendments to some of the definitions (Art. 3 CUI), although these fall within the competence of the Revision Committee.

The Secretary General's working group met four times in Berne (10.12.2014, 8.7.2015, 24.11.2015 and 31.5.2016). In addition to the Member States, the European Commission and representatives of the stakeholders (CIT, EIM, RNE,

CER) also took part in the working group.

At the first meeting, the Secretariat of the working group submitted a scoping note describing the problem relating to the current scope and setting out questions the working group should deal with.

The main issue, which was discussed at every meeting, was the question of whether, and to what extent, the scope of the CUI UR should be dissociated from CIV and CIM contracts of carriage. This was because it was actually the link between the scope of the CUI UR and individual contracts of carriage that had been identified as the problem that was causing the lack of clarity concerning the scope.

Once the trend concerning this dissociation had emerged, the question arose, quite logically, as to what happens in other cases of use of the railway infrastructure, i.e. those with no connection

According to the Depositary's overview, 41 OTIF Member States apply the Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI UR, Appendix E to COTIF). This should soon be 42 Member States, once the last EU Member State has withdrawn its reservation.

to carriage under CIV or CIM, such as when the railway infrastructure is used by empty wagons/trains for trial runs or by maintenance vehicles/trains. Once the working group had gained an overview of such cases of use of the railway infrastructure – thanks to the information provided by the European rail infrastructure managers (EIM/RNE) – the majority of the working group members supported the view that “non-commercial use” should not be covered by the newly defined scope. The CUI UR only

apply to commercial trains, i.e. trains operating for the purpose of carriage under CIV/CIM. However, there is no doubt that a load run by a train might include a non-load run, so it would still be subject to the same legal regime.

Also against this background, the question arose as to whether a definition of “carrier” still makes sense if the scope is dissociated from CIV and CIM contracts of carriage. As an alternative, the term “user” was proposed and examined. The result of this discussion was as follows: as there is definitely a close connection between the CIV/CIM UR on the one hand and the CUI UR on the other, it was still considered useful to keep the term “carrier”. However, the working group was aware that this term has to be defined differently for the purposes of the CIV/CIM UR on the one hand and for the purposes of the CUI UR on the other.

In the course of three one-day meetings, draft new wording was developed for Article 1 CUI. Thanks to a new definition of “international railway traffic” to be introduced, which is specific to the purposes of the CUI UR, it was possible to keep the draft text of Article 1 resulting from the 4<sup>th</sup> meeting relatively simple. According to the Secretary General’s draft text as developed by the working group, the term “**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 States and coordinated by the infrastructure managers concerned (Article 3 aa)).

In order for the CUI UR to be applicable, according to the draft text of Article 1 the following conditions should be met:

- contract of use of railway infrastructure situated in a Member State
- in international railway traffic

- for the purpose of the CIV UR and the CIM UR.

It is in the nature of things that the associations of stakeholders, carriers and infrastructure managers that took part in the work of the working group have fundamentally different interests in terms of the carrier’s right of recourse against the infrastructure manager. Can and should the right of recourse of the carrier, who, according to CIV/CIM, is also liable to his customers for damage caused by the infrastructure, be regulated in such a way that the amount of compensation in the context of the right of recourse corresponds exactly to the carrier’s extent of liability to his customers? The carriers have always emphasised their need for a closed chain of liability.

From the beginning however, the majority of the Member States had decided on the principle that use of the infrastructure by **trains operated in national traffic** should remain **outside the scope of the CUI**. This principle should constitute a “red line” for the work of the working group. As a result, the carriers’ request referred to above could not be granted. The majority of Member States in the working group did not support the option of dealing with the carrier’s right of recourse against the infrastructure manager – along the lines of the right of recourse between carriers – directly in the Appendices concerned, i.e. the CIV and CIM UR, which govern the carrier’s liability to his customers. Carriers and infrastructure managers are still entitled **to manage their mutual recourse claims in contracts, where such claims are not covered by the scope of the CUI**.

The Secretary General is still awaiting confirmation of the result of the working group’s work from its members (draft texts for Articles 1, 3 aa) and c) and 8 § 1, and for the parts of the Explanatory

Report concerning these Articles) before he submits his draft to the Revision Committee in 2017.

As the revised scope is only a matter of clarification, the CUI UR can already be implemented in practice accordingly, irrespective of when the amendments to be adopted by the General Assembly enter into force. It goes without saying that an internationally harmonised liability regime is of benefit to all participants in terms of cross-border passenger trains using the railway infrastructure in different Member States or freight trains being operated on the European freight transport corridors. The uniform liability regime can be incorporated into internationally harmonised conditions of use and hence into a “general contract of use”, similarly to how this was achieved in the case of the contract of use of goods wagons by means of the General Contract of Use for Wagons (GCU) framed in accordance with the CUV UR (Appendix D to COTIF)<sup>2</sup>. Current circumstances would make such a solution possible, now that two obstacles have been removed: firstly, almost all the EU Member States have withdrawn their reservations against Appendix E to COTIF. Secondly, the scope of the CUI has been clarified.

In these circumstances, standardised solutions based on the CUI UR should meet with broader acceptance, both by carriers and infrastructure managers, than was the case with the previous instruments of contractual harmonisation<sup>3</sup>.

The Member States are free to stipulate that the legal regime that applies to international traffic also applies to use of the railway infrastructure by trains in domestic traffic.

*Eva Hammerschmiedová*

<sup>2</sup> See <http://www.gcubureau.org/contract2016>

<sup>3</sup> In the Chapter concerning “Liability”, the European General Terms and Conditions of use of railway infrastructure (E-GTC-I) negotiated by CIT and RNE are in fact based on the CUI, but they are hardly used. Their scope is supposed to cover national and international traffic. Text see <http://www.cit-rail.org/en/use-of-infrastructure/>

The European single contract of use of the railway infrastructure (E-SCU-I) was developed solely by RNE and the Article in it that deals with “Liability” refers to “relevant national law and provisions of the IMs”. Text see [http://www.rne.eu/tl\\_files/RNE\\_Upload/Downloads/RNE-Standard%20Contract%20of%20Use%20Version%202004.pdf](http://www.rne.eu/tl_files/RNE_Upload/Downloads/RNE-Standard%20Contract%20of%20Use%20Version%202004.pdf)

## CALENDAR OF OTIF'S MEETINGS IN 2016

DATE	EVENT	LOCATION
18 - 19 October	3 <sup>rd</sup> session of the RID/ATMF working group	Berne - Switzerland
21 October	OSJD/OTIF Management meeting	Warsaw - Poland
16 - 17 November	Committee of Technical Experts 30 <sup>th</sup> session of the standing working group WG TECH	Berne - Switzerland
22 - 24 November	7 <sup>th</sup> session of the RID Committee of Experts' standing working group	Prague - Czech Republic
7 - 8 December	OTIF's Administrative Committee - 126 <sup>th</sup> session	Berne - Switzerland

## EVENTS WITH OTIF PARTICIPATION IN 2016

DATE	EVENT	ORG	LOCATION
26 September	Railway interoperability and safety committee (RISC) Working Group	European Commission - DG MOVE	Brussels - Belgium
27 - 28 September	Notified Bodies and Templates meeting	European Union Agency for Railways	Brussels - Belgium
29 September	Members Assembly	LITRA	Berne - Switzerland
6 October	Task Force for the application of NOI TSI to existing wagons	European Union Agency for Railway	Lille - France
5 - 7 October	14 <sup>th</sup> session of Group of Experts towards Unified Railway (SC.2/GEURL)	UNECE	Lille - France
7 October	Digital days	UIC	Paris - France
11 - 12 October	Workshop on Vehicle Authorization	European Union Agency for Railways	Lille - France
12 October	Working Party on Customs Questions affecting Transport (WP.30)	UNECE	Geneva - Switzerland
13 - 14 October	XVII Conference RAILCON '16	Faculty of Mechanical Engineering, University of Niš	Niš - Serbia
18 October	Rationalisation of vehicle related registers working party	European Union Agency for Railways	Lille - France
18 - 19 October	CIV Working Group	CIT	Berne - Switzerland
19 - 20 October	Homeland & Global Security Forum – 18 <sup>th</sup> Annual Session	Crans Montana Forum	Brussels - Belgium

## EVENTS WITH OTIF PARTICIPATION IN 2016

DATE	EVENT	ORG	LOCATION
20 - 21 October	Annual meeting- OSJD Commission on Infrastructure and Rolling Stock-OSJD Committee	OSJD	Warsaw - Poland
21 October	CUI Working Group	CIT	Berne - Switzerland
26 October	Working Group CIV/SMPS	CIT	Berne - Switzerland
27 October	Workshop - Awareness Day	European Commission- Euromed - OTIF - CIT	Cairo - Egypt
2 November	Workshop - Awareness Day	European Commission- Euromed - OTIF - CIT	Jerusalem - Israel
8 - 9 November	Notified Bodies and Templates meeting	European Union Agency for Railways	Lille - France
8 - 11 November	Working Party on the Transport of Dangerous Goods (WP.15)	UNECE	Geneva - Switzerland
10 November	Working Party TSI LOC & PAS	European Union Agency for Railways	Lille - France
15 - 16 November	UIC Group of Experts on the Carriage of Dangerous Goods	UIC	Ljubljana - Slovenia
14 - 18 November	1 <sup>st</sup> session of the International Conference on the adoption of the new OSJD Convention	OSJD	Warsaw - Poland
17 November	General Assembly	CIT	Berne - Switzerland
18 November	Multimodality Committee	CIT	Berne - Switzerland
22 November	Rationalisation of vehicle related registers working party 4RP veh.author	European Union Agency for Railways	Lille - France
22 - 24 November	Working Party on Rail Transport (SC2) 70 <sup>th</sup> session	UNECE	Geneva - Switzerland
28 November - 6 December	ECOSOC Sub-Committee of Experts on the Transport of Dangerous Goods (50 <sup>th</sup> session)	UNECE	Geneva - Switzerland
30 November - 1 December	Working Group CIM	CIT	Berne - Switzerland

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Thank you for your continued interest.

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