



Guidelines on treaty acts under COTIF

The Secretary General of OTIF as the
depository of COTIF

Table of Contents

A. General principles	6
1. Depositary functions under COTIF	6
2. Regional economic integration organisations	7
3. Language	8
4. Assistance	8
 B. Representation for the purpose of performing treaty acts: general considerations	 10
1. Authority to represent a State: 'Qualified Authorities' and full powers	11
<i>a) Persons authorised to represent a State</i>	11
<i>b) Instruments of expression of consent to be bound or modifying the commitments of a State</i>	12
2. Authority to represent a State: other competent state authorities	13
 C. Authority to represent the State in respect of COTIF 1999	 14
1. Accession, membership and denunciation	14
<i>a) Accession to and denunciation of the Convention</i>	14
<i>b) Associate membership and termination thereof</i>	15
<i>c) Suspension of membership</i>	15
2. Declarations and reservations	16
<i>a) Non-application of certain Appendices in their entirety or of certain provisions of the Convention</i>	16
<i>b) Application of CIV UR and/or CIM UR only to part of a Member State's railway network</i>	17
<i>c) Declarations on application of European Union legislation</i>	20
3. Modifications to the Convention and Correction of Errors	21
<i>a) Modification by the General Assembly</i>	21
<i>b) Modification by the Committees</i>	22
<i>c) Corrections of errors</i>	24
4. Arbitration	25
<i>a) Arbitration procedure</i>	25
<i>b) Arbitrators</i>	25
5. CIV UR, CIM UR and CUI UR	26
<i>a) Application of CIV UR and/or CIM UR only to a part of a Member State's railway network</i>	26
<i>b) CIV UR liability provisions</i>	26
<i>c) CUI UR liability provisions</i>	26
<i>d) Maritime and inland waterway services</i>	26
<i>e) Supplementary provisions to CIV UR and CIM UR</i>	28

<i>f) Derogations from CIV UR and CIM UR</i>	29
<i>g) Value in Special Drawing Rights</i>	30
6. APTU UR and ATMF UR	31
<i>a) Information on errors and deficiencies in UTP</i>	31
<i>b) Declarations of non-application or partial application of the validated technical standard or the adopted UTP</i>	31
<i>c) Information on national technical requirements</i>	32
<i>d) Information on national authorities (ATMF UR)</i>	33
<i>e) Procedures for the assessments and requirements concerning UTP declarations</i>	34
<i>f) Notifications in accordance with Annex A to ATMF UR</i>	35
<i>g) Derogations from application of UTPs</i>	36
<i>h) Notifications in accordance with UTPs</i>	36
7. Notifications in accordance with the Annex to RID	36

Annex I Summary table of requirements for treaty acts under COTIF	38
Annex II Requirements for the full powers instrument	50
Annex III Model instrument of full powers	51
Annex IV Model instrument of general full powers	52
Annex V Requirements for the deposit of instruments expressing consent to be bound or modifying the commitments of a State	53
Annex VI Requirements for notifications that do not express consent to be bound or modify the commitments of a state	54
Annex VII Model instrument of accession	55
Annex VIII Model instrument of accession with (a) reservation(s)/declaration(s)	56
Annex IX Model instrument of application for associate membership	58
Annex X Model instrument of (a) reservation(s)/declaration(s)	60
Annex XI Model instrument of withdrawal of (a) reservation(s)/declaration(s)	61
Annex XII Model instrument of inclusion/deletion of (a) railway line(s) in/from the CIV list of railway lines and/or CIM list of railway lines	62
Annex XIII Model instrument of inclusion of (a) maritime and/or inland waterway service(s) in the CIV list of maritime and inland waterway services and/or CIM list of maritime and inland waterway services	64
Annex XIV Model instrument of deletion of (a) maritime and/or inland waterway service from the CIV list of maritime and inland waterway services and/or CIM list of maritime and inland waterway services	67
Annex XV Model instrument of approval	69
Annex XVI Model instrument of non approval	70
Annex XVII Model instrument of objection	71
Annex XVIII Model instrument of withdrawal of objection	72

1. The purpose of these Guidelines is to describe the requirements concerning representation for the performance of treaty acts¹ under COTIF. In order to assist States and regional economic integration organisations (REIO), model instruments are also provided. However, States and REIOs may use their own instruments or adapt the models, provided that the applicable legal requirements are complied with.
2. These Guidelines address the requirements for treaty acts under COTIF in line with international law and the practice followed by OTIF's Secretary General. As the supreme organ of OTIF, the General Assembly may establish special rules concerning treaty acts under COTIF.

¹ Treaty acts – ratifications, accessions, reservations, declarations, withdrawals, notifications, communications etc.

A. General principles

1. Depositary functions under COTIF

3. Article 21 § 3 of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Modification Protocol of 3 June 1999 (COTIF 1999), provides that the OTIF Secretary General must assume the functions of Depositary.
4. Article 36 § 1 of COTIF 1999 prescribes that the OTIF Secretary General's functions as the Depositary shall be those outlined in Part VII (Articles 76 – 80) of the 1969 Vienna Convention on the law of treaties (1969 Vienna Convention).
5. Article 76 (2) of the 1969 Vienna Convention reflects the long-established and fundamental principle of customary law that the functions of the Depositary of a treaty are international in character and the Depositary is under an obligation to act impartially in their performance.

6. The Depositary functions are administrative and non-political. To a certain extent, the execution of these administrative functions includes the exercise of control and supervision. For instance, the Depositary may need to check whether instruments of approval of amendments are in due and proper form. The Depositary should act in obvious cases: if there are any questions concerning the applicable requirements, the Depositary has to refer such questions to all Member States. If a dispute arises between a Member State and the Depositary about the performance of his functions, the Depositary or the Member State concerned must bring the question to the attention of the other Member States or, if appropriate, submit it for resolution by the Administrative Committee (COTIF 1999, Articles 15, § 5, letter q, and 36, § 2).
7. The execution of the OTIF Secretary General's Depositary functions is regulated by the 1969 Vienna Convention, COTIF 1999 and customary international law. The OTIF Secretary General has always closely followed the UN Secretary General's practice² as the Depositary of multilateral treaties. This has been expressly indicated in the OTIF Secretary General's communications with Member States.

2. Regional economic integration organisations

8. COTIF 1999 allows REIOs to become a member of COTIF. The REIO is understood as an organisation which has competence to adopt its own legislation, which is binding on its Member States, in respect of the matters covered by this Convention and of which one or more Member States are members.
9. These Guidelines refer only to requirements applicable

² 1999 Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties, UN Doc. ST/LEG/7/Rev.1
https://treaties.un.org/doc/source/publications/practice/summary_english.pdf

to representatives of a State. However, when an REIO has a right or an obligation to perform a particular treaty act, these Guidelines should be applied *mutatis mutandis*. In particular, a person is considered as representing an REIO for the purpose of performing treaty acts if that person produces appropriate full powers or if it appears from the circumstances that it was the intention of the States and the REIO concerned to consider that person as representing the organisation for such purposes, in accordance with the rules of the organisation, without having to produce full powers.

3. Language

10. OTIF's working languages are English, French and German. In the event that the instrument under COTIF (a specific treaty act) is drafted in another language, an unofficial courtesy translation in one of the three working languages must accompany the instrument.

4. Assistance

11. Interested representatives of States and REIOs are invited to contact the Legal Department of the OTIF Secretariat if they have any requests for assistance on depositary matters, particularly with regard to the preparation of a valid international instrument under COTIF. The work of the Secretariat would be facilitated if the Member States make available a scanned instrument (such as an instrument of accession, declaration, approval of modifications to COTIF etc.) prior to depositing the original with the Secretary General.

12. These Guidelines contain general considerations concerning representation for the purpose of performing treaty acts (Part B) and granting authority to represent the State in respect of COTIF 1999 (Part C). Annex I contains a summary table of requirements with regard to COTIF, Annex II sets out the requirements for the full powers instrument, Annex V sets out the requirements for the deposit of instruments expressing consent to be bound or modifying the commitments of a State and Annex VI details requirements for notifications that do not express consent to be bound or modify the commitments of a State. Annexes III, IV and VII-XVIII contain model instruments.

B. Representation for the purpose of performing treaty acts: general considerations

13. One of the classic Depositary functions, as defined in Article 77 (1), letter d) of the Vienna Convention of 1969, is examining whether the signature or any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the State in question.
14. COTIF 1999 does not contain any particular provisions on representation for the purpose of performing different treaty acts – i.e. it does not define persons and organs authorised for that purpose.
15. The 1969 Vienna Convention contains specific provisions on an appropriate level of representation for the purpose of performing all acts relating to the conclusion of a treaty, including an expression of consent to be bound³. Those provisions should also apply *mutatis mutandis* to other treaty acts that aim to modify a legal effect of the provisions of a treaty and thus have a direct impact on rights and duties of the States and, as a consequence, are as binding as the conclusion of a new treaty. Such an interpretation is confirmed in practice, for instance, by the fact that the UN Secretary-General applies the same formal requirements that apply to the conclusion of a treaty to all acts which extend or modify the commitments of a State.

³ Consent to be bound is the act whereby a State demonstrates its willingness to undertake the legal rights and obligations under a treaty through definitive signature or the deposit of an instrument of ratification, acceptance, approval or accession.

16. Depending on the legal nature of the specific treaty action, authorities representing a State either have to be ‘Qualified Authorities’⁴ or other authorities with full powers⁵ (1) or competent state authorities without the requirement to produce full powers (2).

1. Authority to represent a State: ‘Qualified Authorities’ and full powers

a) Persons authorised to represent a State

17. The provisions of Article 7 of the 1969 Vienna Convention establish which agents of the State are competent at international level to represent States, and provide a relatively straightforward system by which those involved in the conclusion of treaties can be assured that they are dealing with duly authorised representatives of other States⁶.
18. A general rule is that a person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:
- a) he produces appropriate full powers; or
 - b) it appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.
19. By virtue of their functions and without having to produce full powers, for the purpose of performing all acts relating to the conclusion of a treaty, the following

⁴ ‘Qualified Authorities’ – Heads of State, Heads of Government and Ministers for Foreign Affairs.

⁵ Full powers – means a document emanating from the competent authority of a State designating a person or persons to represent the State to negotiate, adopt or authenticate the text of a treaty, to express the consent of the State to be bound by a treaty, or to accomplish any other act with respect to a treaty.

⁶ Treaty Making – Expression of Consent by States to be Bound by a Treaty. Council of Europe (2001), p. 6.

are considered as representing their State: Heads of State, Heads of Government and Ministers for Foreign Affairs. Only these three authorities ('Qualified Authorities') may express the consent to be bound, or modify the commitments of a State without producing full powers. All individuals other than 'Qualified Authorities' must be in possession of appropriate full powers in order to execute such treaty actions.

The requirements for full powers: Annex II.

Model instrument of full powers: Annex III.

Model instrument of general full powers: Annex IV.

b) Instruments of expression of consent to be bound or modifying the commitments of a State

20. The common forms of expression of consent to be bound for the purpose of concluding a treaty or amending it are defined in Article 11 of the 1969 Vienna Convention: these common forms are signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or any other means if so agreed. There is no hierarchy of these means and international law leaves it completely up to States which procedure they decide to follow.
21. A clear distinction should be made between internal (domestic) procedures and international procedures. For instance, ratification at national level is inadequate to establish a State's intention to be legally bound at international level. The required action at international level, i.e. the deposit of the instrument of ratification, must also be undertaken⁷.

⁷ Treaty Handbook, Prepared by the Treaty Section of the Office of Legal Affairs. United Nations (2012), p. 9.

The requirements for the deposit of instruments expressing consent to be bound or modifying the commitments of a State: Annex V.

2. Authority to represent a State: other competent state authorities

22. Generally, the notion of notification is understood as a formal unilateral act in international law by a State informing other States or organisations of legally relevant facts⁸. Notifications normally provide information as required under a treaty. They usually relate to the designation of authorities or designation of languages, or the establishment of jurisdiction required under the treaty provisions⁹.

23. Since [such] a notification does not have a legal effect similar to a declaration or reservation (i.e. does not create or modify legal obligations), it does not need to be signed by one of the three [Qualified] Authorities¹⁰ [and can thus be submitted by other competent state authorities without the submission of full powers]. However, if a notification is in the nature of a binding instrument, it has to be signed by one of the three ‘Qualified Authorities’. Therefore, it is the substance of the instrument (creates or modifies legal obligations), and not its form (communication, notification etc.), which is decisive in determining the requirements of the instrument.

Requirements for notifications that do not express consent to be bound or modify the commitments of a State: Annex VI.

⁸ M. F. Dominick, Notification, in: R. Bernhardt (ed.), *Encyclopaedia of Public International Law*, Volume III (1997), p. 695.

⁹ Treaty Handbook, Prepared by the Treaty Section of the Office of Legal Affairs. United Nations, 2012, p. 19.

¹⁰ Treaty Handbook, Prepared by the Treaty Section of the Office of Legal Affairs. United Nations, 2012, p. 20.

C. Authority to represent the State in respect of COTIF 1999

24. The treaty actions expressly stipulated in COTIF 1999 have to be classified in accordance with the level of representation required for specific action based on the following criteria: does a specific action create, extend or modify the commitments of a State? However, OTIF's current practice and the whole corpus juris of COTIF 1999 have to be taken into account.

Summary table of requirements for treaty acts with regard to COTIF: Annex I.

1. Accession, membership and denunciation

a) Accession to and denunciation of the Convention (COTIF 1999, Articles 37, 38 and 41)

25. A State wishing to accede to/denounce COTIF must address an application to/inform the Depositary. Accession to and denunciation of COTIF are an expression of the State's consent to be bound by a treaty and termination of such consent.
26. The OTIF Secretary General's practice with regard to the requirements for instruments of ratification, acceptance or approval of and accession to COTIF has

been consistent and in all cases, only instruments signed by the ‘Qualified Authorities’ have been accepted. Instruments signed by other persons have only been accepted on condition that appropriate full powers have also been submitted.

- 27. Accession and denunciation may only be executed by ‘Qualified Authorities’ or other state authorities on condition that full powers are submitted.**

Model instrument of accession: Annex VII.

Model instrument of accession with (a) reservation(s)/ declaration(s): Annex VIII.

- b) Associate membership and termination thereof*
(COTIF 1999, Articles 39 and 41)

28. A state wishing to become an Associate Member must address an application to the Depositary. Associate Members have “observer” rights in OTIF’s organs, except the Administrative Committee, in which they may not participate, and they must also pay contributions to OTIF.

- 29. Acts for the purpose of becoming Associate Members or termination of such membership may be executed by ‘Qualified Authorities’ or other competent state authorities without the submission of full powers (e.g. minister responsible for transport etc.).**

Model instrument of application for associate membership: Annex IX.

- c) Suspension of membership*
(COTIF 1999, Article 40)

30. Membership may only be suspended on condition that international rail traffic is no longer carried out on the territory of a Member State for reasons not attributable to that State – i.e. because of an event that is not controlled by that State. The decision on the suspension of membership has to be taken by an OTIF organ (the Administrative Committee), based on a request from the State concerned. Therefore, the suspension of membership is not a unilateral act.

31. Acts for the purpose of suspending membership may be executed by ‘Qualified Authorities’ or other competent state authorities without the submission of full powers (e.g. minister responsible for transport etc.).

2. Declarations and reservations

a) Non-application of certain Appendices in their entirety or of certain provisions of the Convention
(COTIF 1999, Article 42)

32. A Member State may declare, at any time, that it will not apply in their entirety certain Appendices to the Convention.

33. Member States may also make reservations and declarations not to apply certain provisions of the Convention itself or of its Appendices¹¹:

11 COTIF 1999 currently contains seven Appendices:

- Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV UR);
- Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM UR);
- Regulation concerning the International Carriage of Dangerous Goods by Rail (RID);
- Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic (CUV UR);
- Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI UR);
- 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);
- Uniform Rules concerning Technical Admission of Railway Material used in International Traffic (ATMF UR).

- non-application or only partial application of the arbitration procedure (COTIF 1999, Article 28 §§ 3 and 4);
- non-application of certain CIV UR liability provisions (CIV UR, Article 2);
- non-application of certain CUI UR liability provisions (CUI UR, Article 2);

34. In the OTIF Secretary General's practice, the Secretary General has insisted on the requirement that the instrument of reservation/declaration be signed by one of the 'Qualified Authorities' or that appropriate full powers be issued.

35. Reservations/declarations concerning non-application of certain Appendices in their entirety or of certain provisions of the Convention may only be made and withdrawn by 'Qualified Authorities' or other authorities on condition that full powers are submitted.

Model instrument of accession with (a) reservation(s)/declaration(s): Annex VIII.

Model instrument of (a) reservation(s)/declaration(s): Annex X.

Model instrument of withdrawal of (a) reservation(s)/declaration(s): Annex XI.

b) Application of CIV UR and/or CIM UR only to part of a Member State's railway network
(COTIF 1999, Article 24 §§ 2, 3, 4 and 5, CIV UR, Article 1 §§ 6 and 7, CIM UR, Article 1 §§ 6 and 7)

36. COTIF 1999 is generally applicable to international carriage on the whole network of its Member States.

However, this was not the case under COTIF 1980, where the CIV UR and CIM UR were applicable only to specified lines.

37. Under COTIF 1980, notification of the inclusion or deletion of lines had to be sent to the Central Office, but not to the depositary (Switzerland at that time). These notifications were mainly made by ministries responsible for transport, who were not required to produce full powers.
38. Under COTIF 1999 any State which is a party to a convention concerning international through carriage of passengers and goods by rail comparable to the CIV UR and CIM UR may, when it makes an application for accession to the Convention, declare that it will apply CIV UR and/or CIM UR only to carriage performed on a part of the railway infrastructure (i.e. railway lines) situated on its territory. This part of the railway infrastructure must be precisely defined and connected to the railway infrastructure of a Member State. Afterwards, Member States may include new railway lines or delete them by sending the Secretary General notification concerning the inclusion or deletion of such part of the railway infrastructure.
39. The railway lines of a Member State which has lodged a reservation in accordance with CIV UR, Article 1 § 6 and/or CIM UR, Article 1 § 6 are included in two lists in accordance with that reservation:
 - a) the CIV list of railway lines,
 - b) the CIM list of railway lines.
40. When a Member State has lodged a reservation in accordance with CIV UR, Article 1 § 6 and/or CIM UR, Article 1 § 6, for the purpose of calculating this State's contribution, only the length of notified railway

lines to which CIV UR and/or CIM UR are applicable is taken into account, instead of the total length of railway infrastructure (which may vary each year) on the territory of that Member State. Moreover, the part of the contribution according to the United Nations system is calculated pro rata.

41. In OTIF's practice under COTIF 1999, all declarations to apply CIV UR and CIM UR to specified railway lines were made at the time of application for accession (as required by the Convention) by one of the 'Qualified Authorities'. In current practice, instruments extending the application of COTIF to new railway lines have been submitted either by the relevant Embassy or Ministry of Transport. However, taking into account the legal nature of the reservation (application of the CIV UR and CIM UR only on certain railway lines) and its partial withdrawal or modification (i.e. inclusion of new lines or deletion of lines), the Secretary General will apply the same requirement to the modification and withdrawal of reservations as to the depositing of it.

- 42. The initial declaration at the time of accession may only be made and, as a consequence, modified and withdrawn by 'Qualified Authorities' or other authorities on condition that full powers are submitted.**

Model instrument of accession with (a) reservation(s)/ declaration(s): Annex VIII.

Model instrument of (a) reservation(s)/declaration(s): Annex X.

Model instrument of inclusion/deletion of (a) railway line(s) in/from the CIV List of railway lines and/or CIM List of railway lines: Annex XII.

c) Declarations on application of European Union legislation

(Article 11 of the Agreement between OTIF and the EU on the accession of the EU to the Convention concerning international carriage by rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999)

43. Parties to the Convention other than Member States of the European Union (EU), which apply relevant EU legislation as a result of their international agreements with the EU, may, with the acknowledgement of the Depositary of the Convention, enter individual declarations with regard to the preservation of their rights and obligations under their agreements with the EU, the Convention and related regulations.
44. Such agreements with the EU may only affect traffic between those States concerned. In this case the provisions of the 1969 Vienna Convention are also relevant, in particular Article 41 states that two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty between themselves alone if, inter alia, the possibility of such a modification is provided for by the treaty. Moreover, it is important that such agreements will have legal effect from their entry into force.
45. **Such declarations may be made by ‘Qualified Authorities’ or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).**

3. Modifications to the Convention and Correction of Errors

(COTIF 1999, Articles 34 and 35, 1969 Vienna Convention, Article 79)

46. Under COTIF 1999 there are two procedures for modifying COTIF: by the General Assembly and by the Committees. It is evident that modifications to the Convention usually have an impact on a State's obligations. These two procedures will be examined separately (points a) and b)). The 1969 Vienna Convention prescribes the procedure for correcting errors in texts of the treaties (point c)).

a) *Modification by the General Assembly*
(COTIF 1999, Article 34)

47. Several important procedural aspects relating to modifications to the Convention adopted by the General Assembly have to be taken into account:

- For the entry into force of modifications, notifications concerning the approval of modifications must be submitted to the OTIF Secretary General. The term 'approval' is a generic term covering any act expressing consent to be bound by the modifications. In the OTIF Secretary General's practice 'approvals' were made in the form of instruments of approval, acceptance or ratification.
- Before the entry into force of modifications to the Convention itself, Member States may make a declaration in terms that they do not approve such modifications. Such a declaration may have the effect of terminating a State's membership.
- Before the entry into force of modifications to the

Appendices to the Convention, Member States may make a declaration in terms that they do not approve such modifications. Such a declaration may have the effect of terminating a State's membership and will have the effect of suspending application of the Appendix in question. In the latter case, the effect will be similar to that of Article 42 (Declarations and reservations to the Convention) of COTIF 1999.

48. Moreover, it is worth referring to the Rules of Procedure of the General Assembly, as COTIF 1999 does not define any particular rule for the purpose of representation at the General Assembly. In accordance with Article 6 (powers) of the General Assembly's Rules of Procedure: *in order to participate in Assembly votes concerning amendments to the Convention, delegations of Member States shall be vested with specific powers assigned by name by the Head of State, the Head of Government, the Minister for Foreign Affairs or the Head of the authority authorised to issue these powers. In the latter case, the letter of credentials shall indicate that the authorisation has been granted by the Head of State, the Head of Government or the Minister for Foreign Affairs.*

49. Declarations of approval may only be made, and declarations of non-approval may only be made and withdrawn, by 'Qualified Authorities' or other authorities on condition that full powers are submitted.

Model instrument of approval: Annex XV.

Model instrument of non-approval: Annex XVI.

b) *Modification by the Committees*
(COTIF 1999, Article 35)

50. Several important procedural aspects relating to modifications to the Convention decided upon by the Committees have to be taken into account:
- Ex post formal approval by Member States is not required, i.e. the tacit approval procedure is applicable.
 - Member States may formulate an objection during the four months from the day of the notification of modifications by the Secretary General. In case of modifications to an Appendix, such objections will have the effect of suspending application of the Appendix in question. Such objections will therefore have a similar effect to that of Article 42 COTIF 1999 (Declarations and reservations to the Convention). In the case of objection to the validation of a technical standard or to the adoption of a uniform technical prescription in accordance with APTU UR, only that standard or prescription is suspended.
51. In accordance with the Rules of Procedure of the Revision Committee, the Committee of Technical Experts and the Committee of Experts on the Transport of Dangerous Goods, each OTIF Member State simply designates a representative for the organ and there is no requirement for full powers.
52. As has already been stated, such modifications usually have an impact on a State's obligations and thus normally only 'Qualified Authorities' or other competent state authorities should be authorised to submit objections. However, in accordance with Article 7 of the 1969 Vienna Convention, other persons might be considered as representing the State without producing full powers if it appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing

the State for particular purposes. In this case, relevant circumstances are: there is no requirement to possess full powers in order to participate in the organ and there is no ex post approval procedure for modifications.

- 53. Objections to modifications may be made by ‘Qualified Authorities’ or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).**

Model instrument of objection: Annex XVII.

Model instrument of withdrawal objection: Annex XVIII.

c) *Corrections of errors*

(1969 Vienna Convention, Article 79)

54. The Depositary plays a central role in the procedure for the correction of errors. The error might be detected by the Depositary or brought to its attention. It is common for errors to occur in the texts of treaties. The errors may be typographical, spelling, punctuation, numbering or cross-referencing, or a lack of consistency between the authentic language texts. In this regard, Article 45 of COTIF 1999 contains the important rule that in case of divergence between languages, the French text prevails. The Depositary notifies members of errors, including lack of consistency between texts in different authentic languages, and of proposals to correct errors, and specifies an appropriate time-limit within which objections to the proposed correction may be raised.

55. In this procedure, the content of a treaty should not be

modified in substance, so corrections do not have an impact on a State's commitments.

- 56. Objections to proposed corrections may be made by 'Qualified Authorities' or by other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).**

4. Arbitration

a) Arbitration procedure

(COTIF 1999, Articles 42 and 28 §§ 3 and 4)

57. The requirements for a reservation concerning the arbitration procedure and for the withdrawal of such a reservation are set out in Chapter C, Section 2 Declarations and reservations, paragraphs 33 – 35.

b) Arbitrators

(COTIF 1999, Article 30 § 1)

58. Each Member State may nominate two of its nationals to the panel of arbitrators. The nomination of persons to the panel of arbitrators does not have an impact on a State's commitments.

- 59. Nomination may be made by 'Qualified Authorities' or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).**

5. CIV UR, CIM UR and CUI UR

a) *Application of CIV UR and/or CIM UR only to a part of a Member State's railway network*

(COTIF 1999, Article 24 §§ 2, 3, 4 and 5, CIV UR, Article 1 §§ 6 and 7, CIM UR, Article 1 §§ 6 and 7)

60. The requirements concerning application of CIV UR and/or CIM UR only to a part of a Member State's railway network are set out in Chapter C, Section 2 Declarations and reservations, paragraphs 36 – 42.

b) *CIV UR liability provisions*

(COTIF 1999, Article 42 and CIV UR, Article 2)

61. The requirements for a reservation/declaration concerning CIV UR liability provisions are set out in Chapter C, Section 2 Declarations and reservations, paragraphs 33 – 35.

c) *CUI UR liability provisions*

(COTIF 1999, Article 42 and CUI UR, Article 2)

62. The requirements for a reservation/declaration concerning CUI UR liability provisions are set out in Chapter C, Section 2 Declarations and reservations, paragraphs 33 – 35.

d) *Maritime and inland waterway services*

(COTIF 1999, Article 24 §§ 1, 3, 4 and 5, CIV UR, Article 1 § 3, CIM UR, Articles 1 § 4 and 38 §4)

63. Member States may extend application of the CIV UR and/or CIM UR to maritime and inland waterway services when international carriage being the subject of a single contract includes carriage by sea or transfrontier carriage by inland waterway as a supplement to

transfrontier carriage by rail. The prerequisite for applying the CIV UR and/or CIM UR to maritime and inland waterway services is the inclusion of those services in:

- a) the CIV list of maritime and inland waterway services,
- b) the CIM list of maritime and inland waterway services.

64. Maritime and inland waterway services between Member States can only be included in the lists with the agreement of the States connected by these services. The consequence of such inclusion is the extension of application of the CIV UR and CIM UR to multimodal carriage.
65. Moreover, in accordance with Article 38 § 4 CIM UR (Liability in respect of rail-sea traffic), where a sea route is served by several undertakings included in the list of services, the liability regime applicable to that route must be the same for all those undertakings. In addition, where those undertakings have been included in the list at the request of several Member States, the adoption of this regime must be the subject of prior agreement between those States.
66. These notifications therefore have an impact on a State's obligations. However, in accordance with Article 7 of the 1969 Vienna Convention, not only 'Qualified authorities', but also other persons could be considered as representing the State for particular purposes, without producing full powers, if this is the practice of the State concerned.
67. Under COTIF 1980, the CIV UR and CIM UR were applicable only to specified lines, including sea services and inland waterways. The notification of inclusion or deletion of sea and inland waterway services had to

be sent to the Central Office, but not to the depositary (Switzerland at that time). Such notifications were made mainly by ministries responsible for transport, who were not required to produce full powers.

68. OTIF's practice from COTIF 1980 up to now, under COTIF 1999, has been to accept all notifications stemming from state authorities as an appropriate expression of the will of a State. This practice was also accepted by Member States.
- 69. An act for the purpose of including/deleting maritime and inland waterway services may be executed by 'Qualified Authorities' or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).**

Model instrument of inclusion of a maritime (and)/ inland waterway service(s) in the CIV List of maritime and inland waterway services (and)/CIM List of maritime and inland waterway services: Annex XIII.

Model instrument of deletion of a maritime (and)/ inland waterway service(s) from the CIV List of maritime and inland waterway services (and)/CIM List of maritime and inland waterway services: Annex XIV.

- e) Supplementary provisions to CIV UR and CIM UR (COTIF 1999, Article 10)*
70. Supplementary provisions for the execution of the CIV UR and the CIM UR may be agreed between two or

more Member States. These supplementary provisions may not derogate from the CIV UR and the CIM UR. Moreover, these supplementary provisions must be put into force and published in the manner required by the laws and prescriptions of each State. These supplementary provisions do not modify the content of States' international obligations.

71. Appropriate notifications may be made by 'Qualified Authorities' or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).

f) Derogations from CIV UR and CIM UR
(CIV UR, Article 4 and CIM UR, Article 4)

72. Under the CIV UR and CIM UR, Member States must notify agreements which provide for derogations from the CIV UR/CIM UR:

- for carriage performed exclusively between two stations on either side of the frontier, when there is no other station between them
- for carriage performed between two Member States, passing through a State which is not a Member State.

73. Member States may also specify in an agreement conditions under which carriers in passenger traffic are subject to the obligation to carry passengers, luggage, animals and vehicles in traffic between those States.

74. In respect of these agreements it has to be emphasised that they only affect traffic between the States concerned. In this case the provisions of the 1969 Vienna Convention are also relevant. In particular, Article 41 states that two or more of the parties to a multilateral

treaty may conclude an agreement to modify the treaty as between themselves alone if inter alia the possibility of such a modification is provided for by the treaty. Moreover, it is important that such agreements will have legal effect from their entry into force.

75. The notification of such agreements may be made by ‘Qualified Authorities’, other competent state authorities (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.) or another duly authorised body (e.g. chairman of an intergovernmental commission established by a treaty).

g) *Value in Special Drawing Rights*
(COTIF 1999, Article 9 §§ 3 and 4)

76. States shall notify the Secretary General of their method of calculation of the value in Special Drawing Rights of the national currency of a Member State which is not a member of the International Monetary Fund. The calculation method does not affect a State’s international obligations.

77. Notification may be made by ‘Qualified Authorities’ or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).

6. APTU UR and ATMF UR

a) Information on errors and deficiencies in UTP

(APTU UR, Article 8a § 2)

78. The Contracting States¹², regional organisations and assessing bodies have the obligation to inform the Secretary General without delay if they discover errors or deficiencies in a UTP. Submission of such information does not have any impact on a State's commitments.

79. Such information may be provided by 'Qualified Authorities' or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).

b) Declarations of non-application or partial application of the validated technical standard or the adopted UTP

(APTU UR, Article 9)

80. Any Contracting State may, within a period of four months from the day of notification of a decision of the Committee of Technical Experts by the Secretary General, make a reasoned declaration notifying him that it will not apply or will apply only partially, the validated technical standard or the adopted UTP, so far as it concerns the railway infrastructure situated on its territory and the traffic on that infrastructure. A declaration may be withdrawn at any time by notification to the Secretary General.

81. The above-mentioned actions will not modify the core obligations and duties under COTIF 1999 and its Appendices. The declaration mentioned above is closely linked to the procedure for validating technical standards and adopting UTPs. In this respect, there is no special,

¹² Contracting State means a Member State of the Organisation which has not made a declaration in respect of the APTU UR and ATMF UR in accordance with Article 42 § 1, first sentence, of the Convention.

strict requirement in terms of representation for the purpose of validation of technical standards and adoption of UTPs.

82. The declaration of non-application may be provided by ‘Qualified Authorities’ or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).

c) Information on national technical requirements
(APTU UR, Article 12)

83. Contracting States must ensure that the Secretary General is informed of their national technical requirements which apply to railway vehicles. The Secretary General publishes these requirements in the data bank. The information must be received by the Secretary General within three months from the day on which the revised [APTU] Uniform Rules enter into force. The Contracting State may at any time withdraw the temporary provision and notify this to the Secretary General. When a UTP has been adopted or amended, the Contracting State must ensure that the Secretary General is informed - with justification - of those national technical requirements which it will still require to be complied with in order to ensure technical compatibility between vehicles and the network concerned; this includes national rules applicable to “open points” in the technical prescriptions and applicable to the specific cases duly identified in the technical prescription. The national technical requirements may only remain valid if the notification is received by the Secretary General within 6 months from the day on which the technical prescription in question or the change to it entered into

force. The information must include the full text of the national technical provision in an official language of the Contracting State as well as the title and a summary in one of OTIF's working languages.

84. The above-mentioned actions will not modify the core obligations and duties under COTIF 1999 and its Appendices. All the information mentioned above is closely linked to the procedure for validating technical standards and adopting UTPs. In this respect, there is no special, strict requirement for representation for the purpose of validation of technical standards and adoption of UTPs.

85. The information mentioned above may be provided by 'Qualified Authorities' or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).

d) *Information on national authorities (ATMF UR)*
(ATMF UR, Article 5 §§ 5 and 6)

86. A Contracting State must ensure, by notification or where appropriate by the means provided for in the law of the European Union or in the law of the States which apply European Union legislation as a result of international agreements with the European Union, that the Secretary General is informed of the competent authority, the assessing entities and, if applicable, the accreditation body, or the competent national body, indicating each body's area of responsibility. The Secretary General must publish a list of competent authorities, assessing entities and accreditation bodies or competent national bodies, their identification numbers, if applicable, and areas of responsibility, and keep the list updated. A Contracting

State must immediately inform the Secretary General of withdrawal of the competence from an assessing entity which no longer meets the criteria defined in ATMF.

87. The above-mentioned actions will not modify the core obligations and duties under COTIF 1999 and its Appendices. All the information mentioned above is closely linked to the procedure for validating technical standards and adopting UTPs. In this respect, there is no special, strict requirement for representation for the purpose of validation of technical standards and adoption of UTPs.

88. The information mentioned above may be provided by ‘Qualified Authorities’ or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).

e) Procedures for the assessments and requirements concerning UTP declarations
(ATMF UR, Article 10b § 2)

89. Contracting States or regional organisations may adopt (or maintain) provisions for non-discriminatory detailed mandatory procedures for the assessments and requirements concerning UTP declarations. These provisions must be notified to the Secretary General, who informs the Committee of Technical Experts, and they are published by the Organisation.

90. The above-mentioned actions will not modify the core obligations and duties under COTIF 1999 and its Appendices. All the information mentioned above is closely linked to the procedure for validating technical

standards and adopting UTPs. In this respect, there is no special, strict requirement for representation for the purpose of validation of technical standards and adoption of UTPs.

91. The information mentioned above may be provided by ‘Qualified Authorities’ or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).

f) Notifications in accordance with Annex A to ATMF UR

92. Chapter 10 of Annex A to the ATMF UR sets out the requirement to notify the OTIF Secretary General of certification bodies, including any changes. In addition, accreditation bodies (a body that attests that a conformity assessment body meets the applicable requirements) must inform the Secretary General directly of the certification bodies accredited, including any changes.

93. Chapter 10 of Annex A to ATMF UR sets out the requirement for certification bodies to notify the OTIF Secretary General of all issued, amended, renewed or revoked Entity in Charge of Maintenance (ECM) certificates or certificates for specific functions.

94. **The information mentioned above has to be provided by the entities indicated in Annex A to ATMF UR. If a notifying entity is not prescribed, notifications have to be made by competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).**

g) Derogations from application of UTPs
(Annex B to ATMF UR)

95. In accordance with Article 7a of ATMF UR, Annex B establishes the mandatory procedures and requirements regarding derogations from the application of structural or functional UTPs.
96. The procedural acts prescribed by Annex B to ATMF UR have to be made by competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).

h) Notifications in accordance with UTPs

97. UTPs may prescribe certain notifications. For instance, UTP GEN-G sets out the obligation to notify national accreditation bodies and/or the recognition body or recognition bodies for the purpose of this UTP.
- 98. Such notifications have to be made by the entities indicated in the relevant UTP. If a notifying entity is not prescribed, notifications have to be made by competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).**

7. Notifications in accordance with the Annex to RID

99. In accordance with the Annex to RID, Member States have an obligation to notify certain agreements,

derogations, authorities, recognised tank experts, accident reports, additional provisions and technical codes to the OTIF Secretariat, which has to bring the notified/communicated information to the attention of the RID Contracting States.

100. There is an established practice that such notifications are made by competent authorities without submission of full powers. In this respect, it is relevant that there is no special, strict requirement for representation (full powers) for the purpose of adoption of the Annex to RID.

101. The information mentioned above may be provided by ‘Qualified Authorities’ or other competent state authorities without the submission of full powers (e.g. minister responsible for transport, head of an authority or of a department/division within the competent ministry or head of an independent competent authority etc.).

Annex I

Summary table of requirements for treaty acts under COTIF

ACCESSION, MEMBERSHIP AND DENUNCIATION

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
ACCESSION TO COTIF	Anytime	<p>1) In the event of no or fewer than five objections, the application shall be deemed to be accepted three months after the notification by the Depositary to the Member States of that application. The accession shall take effect on the first day of the third month following the notification by the Depositary of the acceptance of the application</p> <p>or</p> <p>2) In the event of opposition from at least five Member States, the application shall be accepted after the favourable decision by the General Assembly. The accession shall take effect on the first day of the third month following the notification by the Depositary of the acceptance of the application</p> <p>3) <i>REIO</i>: in accordance with agreement concluded with OTIF</p>	COTIF 1999 Articles 37 and 38 § 1	'Qualified authorities' or other State Authorities with full powers
DENUNCIATION OF THE CONVENTION	Anytime or when together with objection against a decision of the Revision Committee within the period of four months from the day of notification by the Secretary General of modifications	<p>1) On 31 December of the year following the notification to the Depositary</p> <p>2) When together with an objection against a decision of the Revision Committee, the denunciation shall take effect on the date provided for the entry into force of that decision</p>	COTIF 1999 Articles 35 § 2, 38 § 4 and 41	

ACCESSION, MEMBERSHIP AND DENUNCIATION

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
ASSOCIATE MEMBERSHIP	Anytime	<p>1) In the event of no or fewer than five objections, the application is deemed to be accepted three months after the notification by the Depositary to the Member States of that application</p> <p>or</p> <p>2) In the event of opposition from at least five Member States, the application is accepted after the favourable decision by the General Assembly</p>	COTIF 1999 Articles 37 §§ 2-4 and 39	'Qualified authorities' or other competent state authorities without the submission of full powers
TERMINATION OF ASSOCIATED MEMBERSHIP	Anytime	On 31 December of the year following the notification to the Depositary	COTIF 1999 Articles 39 § 3 and 41	
SUSPENSION OF MEMBERSHIP	When international rail traffic is no longer carried out on its territory for reasons not attributable to that Member State	The first day of the month following the notification by the Secretary General of the decision of the Administrative Committee to suspend membership	COTIF 1999 Article 40	

DECLARATIONS AND RESERVATIONS

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
DECLARATIONS/ RESERVATIONS OF NON-APPLICATION OF CERTAIN APPENDICES IN THEIR ENTIRETY	Anytime	1) At the moment the Convention enters into force for the State concerned or	COTIF 1999 Article 42	'Qualified authorities' or other State Authorities with full powers
DECLARATION OF NON-APPLICATION OF CERTAIN CIV LIABILITY PROVISIONS TO PASSENGERS INVOLVED IN ACCIDENTS OCCURRING ON ITS TERRITORY		2) Declaration made after that entry into force shall take effect on 31 December of the year following the declaration	COTIF 1999 Article 42 CIV UR Article 2 § 1	
DECLARATION OF NON-APPLICATION OF CERTAIN CUI UR LIABILITY PROVISIONS TO VICTIMS OF ACCIDENTS OCCURRING IN ITS TERRITORY			COTIF 1999 Article 42 CUI UR Article 2 §1	
WITHDRAWAL OF A RESERVATION/ DECLARATION ON NON-APPLICATION OF CERTAIN APPENDICES IN THEIR ENTIRETY		At the time of the notification by the Depositary to the Member States or a later date if it was defined in a withdrawal		
RESERVATION NOT TO APPLY OR ONLY PARTLY APPLY THE ARBITRATION PROCEDURE	At the time of an application for accession	At the moment the Convention enters into force for the State concerned	COTIF 1999 Articles 42 and 28 § 3	

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
WITHDRAWAL OF A RESERVATION/ DECLARATION ON NON-APPLICATION OF CERTAIN PROVISIONS OF THE CONVENTION: ARBITRATION PROCEDURE, CIV LIABILITY RULES, CUI LIABILITY RULES	Anytime	One month after the date on which the Depositary notifies the Member States	COTIF 1999 Article 28 § 4 CIV UR Article 2 § 2 CUI UR Article 2 § 2	'Qualified authorities' or other State Authorities with full powers
DECLARATION OF APPLICATION OF CIV UR/CIM UR ONLY TO CARRIAGE PERFORMED ON A PART OF A MEMBER STATE'S RAILWAY NETWORK (I.E. RAILWAY LINES)	At the time of an application for accession	At the moment the Convention enters into force for the State concerned	CIV UR Article 1 § 6 CIM UR Article 1 § 6	
INCLUSION/DELETION OF RAILWAY LINES	Anytime	<p>1) <i>Inclusion</i>: on the expiration of one month running from the date of the notification of their inclusion by the Secretary General</p> <p>2) <i>Deletion</i>: on the expiration of three months running from the date of the notification of the deletion by the Secretary General, save in respect of carriage underway which must be finished</p>	COTIF 1999 Article 24 §§ 2-5	
WITHDRAWAL OF A RESERVATION TO APPLY CIV UR/CIM UR ONLY TO CARRIAGE PERFORMED ON A PART OF A MEMBER STATE'S RAILWAY NETWORK (I.E. RAILWAY LINES)	Anytime	One month after the day on which the Depositary notifies it to the Member States	CIV UR Article 1 § 7 CIM UR Article 1 § 7	
DECLARATIONS ON APPLICATION OF EUROPEAN UNION LEGISLATION	Anytime	The declaration does not produce legal effect itself and is of informative nature	OTIF –EU Agreement Article 11	'Qualified authorities' or other competent State Authorities without the submission of full powers

MODIFICATIONS TO THE CONVENTION AND CORRECTION OF ERRORS

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
APPROVAL OF MODIFICATIONS ADOPTED BY THE GENERAL ASSEMBLY	After notification of modifications by Secretary General but before entry into force	<p>1) <i>Modifications to the Convention itself</i>: enter into force for all Member States twelve months after their approval by two-thirds of the Member States* (*see Article 34 § 2)</p> <p>2) <i>Modifications to the Appendices</i>: enter into force for all Member States twelve months after their approval by half of the Member States* (*see Article 34 § 3)</p>	COTIF 1999 Article 34	Qualified authorities' or other State Authorities with full powers
DECLARATION OF NON-APPROVAL OF MODIFICATIONS ADOPTED BY THE GENERAL ASSEMBLY		<p>1) At the time of entry into force of modifications</p> <p>2) Termination of membership, if specified by the General Assembly: on the expiration of eighteen months running from entry into force of the modifications, if the declaration is not withdrawn</p>	COTIF 1999 Article 34 §§ 2, 3, 6 and 7	
WITHDRAWAL OF DECLARATION OF NON- APPROVAL OF MODIFICATIONS ADOPTED BY THE GENERAL ASSEMBLY	<p>1) Anytime</p> <p>2) In case of possible termination of membership, only during eighteen months running from entry into force of the modifications</p>	<p>1) Concerning modifications to the Convention itself: At the time of the notification by the Depositary to the Member States</p> <p>2) Concerning modifications to the Appendices: on the expiration of one month from the day on which the Secretary General notified the other Member States</p>	COTIF 1999 Article 34 §§ 2, 3, 6 and 7	

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
AN OBJECTION TO MODIFICATIONS ADOPTED BY THE COMMITTEES	4 months from the day of notification by Secretary General of modifications adopted by the Committees	<p>1) In the case of objection by one-quarter of the Member States, the modification shall not enter into force</p> <p>2) The application of the Appendix in question shall be suspended, in its entirety, or a standard or a uniform technical prescription in question from the moment the decisions take effect, in so far as concerns traffic with and between those Member States; the same shall apply in the case of a partial objection</p>	COTIF 1999 Article 35 §§ 2 and 4	'Qualified authorities' or other competent state authorities without the submission of full powers
WITHDRAWAL OF AN OBJECTION TO MODIFICATIONS ADOPTED BY THE COMMITTEES	Anytime	After the expiry of a period of one month from the day when the Secretary General has given notice to the other Member States	COTIF 1999 Article 35 § 5	
CORRECTION OF ERRORS PROCEDURE		After expiration of the time limit given by the Depositary	Vienna Convention 1969 Article 79	

ARBITRATION

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
RESERVATION NOT TO APPLY OR ONLY PARTLY APPLY THE ARBITRATION PROCEDURE	At the time of an application for accession	At the moment the Convention enters into force for the State concerned	COTIF 1999 Articles 28 § 3, 42	'Qualified authorities' or other State Authorities with full powers
WITHDRAWAL OF A RESERVATION NOT TO APPLY OR ONLY PARTLY APPLY THE ARBITRATION PROCEDURE	Anytime	One month after the date on which the Depositary notifies the Member States	COTIF 1999 Article 28 § 4	
NOMINATION OF NATIONALS TO THE PANEL OF ARBITRATORS	Anytime	At the time of notification/ publication by the Depositary	COTIF 1999 Article 30 § 1	'Qualified authorities' or other competent state authorities without the submission of full powers

CIV UR, CIM UR AND CUI UR

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
DECLARATION OF APPLICATION OF CIV UR/CIM UR ONLY TO CARRIAGE PERFORMED ON A PART OF A MEMBER STATE'S RAILWAY NETWORK (I.E. RAILWAY LINES)	At the time of an application for accession	At the moment the Convention enters into force for the State concerned	CIV UR Article 1 § 6 CIM UR Article 1 § 6	'Qualified authorities' or other State Authorities with full powers
INCLUSION/DELETION OF RAILWAY LINES	Anytime	<i>1) Inclusion:</i> on the expiration of one month running from the date of the notification of their inclusion by the Secretary General <i>2) Deletion:</i> on the expiration of three months running from the date of the notification of the deletion by the Secretary General, save in respect of carriage underway which must be finished	COTIF 1999 Article 24 §§ 2-5	

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
WITHDRAWAL OF A RESERVATION TO APPLY CIV UR/CIM UR ONLY TO CARRIAGE PERFORMED ON A PART OF A MEMBER STATE'S RAILWAY NETWORK (I.E. RAILWAY LINES)	Anytime	One month after the day on which the Depositary notifies it to the Member States	CIV UR Article 1 § 7 CIM UR Article 1 § 7	'Qualified authorities' or other State Authorities with full powers
DECLARATION OF NON-APPLICATION OF CERTAIN CIV LIABILITY PROVISIONS TO PASSENGERS INVOLVED IN ACCIDENTS OCCURRING ON ITS TERRITORY		1) At the moment the Convention enters into force for the State concerned or 2) Declaration made after that entry into force shall take effect on 31 December of the year following the declaration	COTIF 1999 Article 42 CIV UR Article 2 § 1	
DECLARATION OF NON-APPLICATION OF CERTAIN CUI UR LIABILITY PROVISIONS TO VICTIMS OF ACCIDENTS OCCURRING IN ITS TERRITORY			COTIF 1999 Article 42 CUI UR Article 2 § 1	
WITHDRAWAL OF A RESERVATION/ DECLARATION ON NON-APPLICATION OF CERTAIN PROVISIONS OF THE CIV LIABILITY RULES, CUI LIABILITY RULES		One month after the date on which the Depositary notifies the Member States	CIV UR Article 2 § 2 CUI UR Article 2 § 2	

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
INCLUSION/DELETION OF MARITIME AND INLAND WATERWAY SERVICES	Anytime	<p>Inclusion: on the expiration of one month running from the date of the notification of their inclusion by the Secretary General</p> <p>Deletion: on the expiration of three months running from the date of the notification of the deletion by the Secretary General, save in respect of carriage underway which must be finished</p>	<p>COTIF 1999 Article 24 §§ 1 and 3-5</p> <p>CIV UR Article 1 § 3,</p> <p>CIM UR Article 1 § 4</p>	'Qualified authorities' or other competent state authorities without the submission of full powers
SUPPLEMENTARY PROVISIONS FOR THE EXECUTION OF THE CIV UR AND CIM UR		The notification does not produce legal effect itself and is of informative nature	COTIF 1999 Article 10	
DEROGATIONS FROM CIV UR			CIV UR Article 4	
DEROGATIONS FROM CIM UR			CIM UR Article 4	
METHOD OF CALCULATION OF THE VALUE IN SPECIAL DRAWING RIGHTS			COTIF 1999 Article 9 §§ 3 and 4	

APTU UR AND ATMF UR

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
ERRORS AND DEFICIENCIES IN UTP	Anytime	The notification is of informative nature	APTU UR Article 8a § 2	'Qualified authorities' or other competent State Authorities without the submission of full powers
DECLARATIONS OF NON-APPLICATION OR PARTIAL APPLICATION OF THE VALIDATED TECHNICAL STANDARD OR THE ADOPTED UTP	Four months from the day of notification of the decision of the Committee of Technical Experts on validation of technical standard or adoption of UTP	The application of a standard or a uniform technical prescription in question is suspended from the moment the decisions take effect, in so far as concerns traffic with and between those Member States; the same shall apply in the case of a partial objection	APTU UR Article 9	
NATIONAL TECHNICAL REQUIREMENTS	Six months from the day when the technical prescription in question or the change to it has entered into force	The national technical requirements shall only remain valid if the notification is received by the Secretary General within 6 months from the day when the technical prescription in question or the change to it has entered into force	APTU UR Article 12	
INFORMATION ON NATIONAL AUTHORITIES	Anytime, but immediately in case of withdrawal of the competence from an assessing entity	The notification is of informative nature	ATMF UR Article 5 §§ 5 and 6	
NOTIFICATION OF PROCEDURES FOR THE ASSESSMENTS AND REQUIREMENTS CONCERNING UTP DECLARATIONS	Anytime	The notification is of informative nature	ATMF UR Article 10b	
NOTIFICATIONS IN ACCORDANCE WITH ANNEX A TO ATMF UR	In accordance with Annex A to ATMF UR	In accordance with Annex A to ATMF UR	Annex A to ATMF UR	

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
DEROGATIONS FROM APPLICATION OF UTPS	In accordance with Annex B to ATMF UR	In accordance with Annex B to ATMF UR	Annex B to ATMF UR	Entities indicated in the Annex/UTP or if a notifying entity is not prescribed by the Qualified authorities or other competent State Authorities without submission of full powers
NOTIFICATIONS IN ACCORDANCE WITH UTPS	In accordance with the relevant UTP	In accordance with the relevant UTP	Relevant UTP	

ANNEX TO RID

Member State's action	When the action may take place	When the action takes effect	Legal basis	Authority
NOTIFICATIONS IN ACCORDANCE WITH ANNEX TO RID	In accordance with the Annex to RID	In accordance with the Annex to RID	Annex to RID	'Qualified authorities' or other competent State Authorities without the submission of full powers

Annex II

Requirements for the full powers instrument

Full powers must be issued and signed by a Head of State, Head of Government or Minister of Foreign Affairs ('Qualified Authorities') and must unambiguously empower the representative of the Government concerned to sign the treaty or treaties covered by his full powers¹. However, it must be underlined that full powers, whether specific or general, must be granted to a named individual and unambiguously confer authority to carry out the action question.

There is no specific form for an instrument of full powers and it does not have to be elaborate, but it must include the following information:

1. Express **authorisation** to undertake a specific treaty action (e.g. approval, reservation etc.);
2. **Full name** and **title** of the person duly authorised to undertake the treaty action concerned;
3. **Signature** by the Head of State, Head of Government or Minister for Foreign Affairs. The official seal is optional and cannot replace the signature;
4. **Date and place** of signature of the instrument of full powers.

¹ Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties, paragraph 102, p. 31.

Annex III

Model instrument of full powers

[HEAD OF STATE, HEAD OF GOVERNMENT OR MINISTER OF
FOREIGN AFFAIRS]

FULL POWERS

I, [name and title of Head of State, Head of Government or
Minister of Foreign Affairs],

HEREBY AUTHORISE Mr/Ms [name and title] to [the
clearly indicated action, e.g. approve the amendments to
the Convention concerning International Carriage by Rail
(COTIF) adopted by the [number] General Assembly held at
Berne on [date]] on behalf of the Government of [name of
State].

Done at [place] on [date]

[Signature]

Annex IV

Model instrument of general full powers

[HEAD OF STATE, HEAD OF GOVERNMENT OR MINISTER OF
FOREIGN AFFAIRS]

GENERAL FULL POWERS

I, [name and title of Head of State, Head of Government or
Minister of Foreign Affairs],

HEREBY AUTHORISE Mr/Ms [name and title] to
[execute any binding treaty action under the Convention
concerning International Carriage by rail (COTIF), including
but not limited to reservations, declarations, approval of
amendments to the Convention concerning International
Carriage by rail (COTIF)] on behalf of the Government of
[name of State],

These full powers will remain valid, unless revoked or
modified, for the duration of Mr/Ms [name]'s duties as [title]
of [State].

Done at [place] on [date]

[Signature]

Annex V

Requirements for the deposit of instruments expressing consent to be bound or modifying the commitments of a State

Recognised international practice is for the instruments expressing consent to be bound or modifying such consent to be issued and signed, as is the case for full powers, by the Head of State, Head of Government or Minister of Foreign Affairs ('Qualified Authorities'). If anyone else signs, full powers authorising that person to do so will have to be produced. However, it is not necessary to produce full powers simply to deposit an instrument or a notification duly signed by one of the 'Qualified Authorities'.

The form and content of an instrument of ratification, acceptance, approval or accession is not laid down either by COTIF 1999 or by the 1969 Vienna Convention. **There are some elements that must be included in such an instrument¹ in order for it to be considered legally valid and to be accepted by the Depositary:**

¹ Only original instruments are valid. If one of these necessary elements is lacking, the Secretary General of OTIF will not accept the instrument in deposit.

² Thus, an expression, even under the signature of a competent authority, such as: "The Government has taken the necessary steps for the purpose of acceding to the agreement" or "the Government intends to accede" is not deemed to be a sufficient manifestation of the will of the Government concerned to become a party to the agreement [Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties. Paragraph 130, p. 39].

³ An unsigned instrument is not acceptable, even if it bears the seal of one of the 'Big Three' ['Qualified Authorities'], since it is important to ensure that the act of ratification has been approved personally at the proper level. [A. Aust. Modern treaty law p. 98-99].

1. The **title** of the Convention;
2. Type of **action** (accession, approval, reservation etc.) clearly identified. In case of expression of consent to be bound, an unambiguous **expression of the will** of the Government, acting on behalf of the State, to recognise itself as being bound by the agreement and to undertake faithfully to observe and implement its provisions²;
3. The **full name and title** of the signatory;
4. The **date and place** where the instrument was issued;
5. The **signature**³ of the Head of State, Head of Government, Minister of Foreign Affairs or a person having full powers issued and signed by one of the above-mentioned three 'Qualified Authorities'. The official seal is optional and cannot replace the signature.
6. The title, date and place of publication of the national act are optional, but would be considered as an additional piece of useful information.

Annex VI

Requirements for notifications that do not express consent to be bound or modify the commitments of a state

The form and content of such notifications are open. Nevertheless, there are some elements that must be included:

- 1. It has to be produced by competent State Authorities;*
- 2. The type of action should be clearly identified;*
- 3. The date of notification should be identifiable.*

Annex VII

Model instrument of accession

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF
FOREIGN AFFAIRS OR A PERSON HAVING FULL POWERS]

APPLICATION FOR ACCESSION

WHEREAS pursuant to Article 37 of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Modification Protocol of 3 June 1999, accession to the Convention shall be open to any State on the territory of which railway infrastructure is operated,

NOW THEREFORE I, [name and title of the Head of State, Head of Government, Minister for Foreign Affairs or a person having full powers] declare that the Government of [name of State], having considered the Convention concerning International Carriage by Rail (COTIF) in its version currently in force, applies for accession to the same and undertakes faithfully to perform and carry out the stipulations therein contained as soon as the accession has taken effect,

IN WITNESS WHEREOF, I have signed this instrument of application for accession at [place] on [date].

[Signature]

Annex VIII

Model instrument of accession with (a) reservation(s)/declaration(s)

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF
FOREIGN AFFAIRS OR A PERSON HAVING FULL POWERS]

APPLICATION FOR ACCESSION WITH (A) RESERVATION(S)/ DECLARATION(S)

WHEREAS pursuant to Article 37 of the Convention
concerning International Carriage by Rail (COTIF) of 9 May
1980, as amended by the Modification Protocol of 3 June
1999, accession to the Convention shall be open to any State
on the territory of which railway infrastructure is operated,

NOW THEREFORE I, [name and title of the Head of
State, Head of Government, Minister for Foreign Affairs or
a person having full powers] declare that the Government
of [name of State], having considered the Convention
concerning International Carriage by Rail (COTIF) in
its version currently in force, applies for accession to the
same and undertakes faithfully to perform and carry out
the stipulations therein contained as soon as the accession

has taken effect, subject to the following declaration(s)/
reservation(s):

In accordance with Article [number of Article and paragraph]
of [COTIF/title of Appendix], the Government of [name of
State] [substance of reservation/declaration]¹,

IN WITNESS WHEREOF, I have signed this instrument of
application for accession at [place] on [date].

[Signature]

1 For instance:

- In accordance with Article 1 § 6 of the Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV – Appendix A to the Convention), the Government of [name of State] declares that [name of State] will apply these Uniform Rules to carriage performed on the following parts of the railway infrastructure situated on its territory: [railway lines],
- In accordance with Article 1 § 6 of the Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM – Appendix B to the Convention), the Government of [name of State] declares that [name of State] will apply these Uniform Rules to carriage performed on the following parts of the railway infrastructure situated on its territory: [railway lines].

Annex IX

Model instrument of application for associate membership

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF FOREIGN AFFAIRS OR ANOTHER COMPETENT AUTHORITY]

APPLICATION FOR ASSOCIATE MEMBERSHIP

WHEREAS pursuant to Article 39 of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Modification Protocol of 3 June 1999, any State on whose territory railway infrastructure is operated may become an Associate Member of the Intergovernmental Organisation for International Carriage by Rail (OTIF),

NOW THEREFORE I, [name and title of the Head of State, Head of Government, Minister for Foreign Affairs or another competent authority] declare that the Government of [name of State], having considered the Convention

concerning International Carriage by Rail (COTIF) in its version currently in force, applies for associate membership of the OTIF and undertakes to use its rights and fulfil its obligations according to Article 39 COTIF as an Associate Member of the OTIF,

IN WITNESS WHEREOF, I have signed this instrument of application for associate membership at [place] on [date].

[Signature]

Annex X

Model instrument of (a) reservation(s)/declaration(s)

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF
FOREIGN AFFAIRS OR A PERSON HAVING FULL POWERS]

RESERVATION/DECLARATION

I, [name and title of the Head of State, Head of Government,
Minister for Foreign Affairs or a person having full powers],

HEREBY DECLARE that the Government of [name of
State] makes the following reservation(s)/declaration(s)

in accordance with [Article] of the Convention concerning
International Carriage by Rail (COTIF) [substance of
reservation/declaration];

in accordance with [Article] of the Convention concerning
International Carriage by Rail (COTIF) [substance of
reservation/declaration].

Done at [place] on [date]

[signature]

Annex XI

Model instrument of withdrawal of (a) reservation(s) /declaration(s)

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF
FOREIGN AFFAIRS OR A PERSON HAVING FULL POWERS]

WITHDRAWAL OF RESERVATION/DECLARATION

WHEREAS the Government of [name of State] on [date] made (a)
reservation(s)/declaration(s)

in accordance with [Article] of the Convention concerning
International Carriage by Rail (COTIF) according to which
[substance of a reservation/declaration],

in accordance with [Article] of the Convention concerning
International Carriage by Rail (COTIF) according to which
[substance of a reservation/declaration].

NOW THEREFORE I, [name and title of the Head of State, Head
of Government, Minister for Foreign Affairs or a person having full
powers], declare that the Government of [name of State], having
reviewed the said reservation(s)/declaration(s), hereby withdraws
the same with immediate effect/effect from [date].

Done at [place] on [date]

[Signature]

Annex XII

Model instrument of inclusion/deletion of (a) railway line(s) in/from the CIV list of railway lines and/or CIM list of railway lines

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF FOREIGN AFFAIRS OR A PERSON HAVING FULL POWERS]

INCLUSION/DELETION OF (A) RAILWAY LINE(S) IN/FROM THE CIV LIST OF RAILWAY LINES (AND)/CIM LIST OF RAILWAY LINES

WHEREAS, upon accession to the Convention concerning International Carriage by Rail (COTIF), the Government of [name of State] made a declaration in accordance with [Article 1 § 6 CIV Uniform Rules (and)/Article 1 § 6 CIM Uniform Rules] of the Convention concerning International Carriage by Rail (COTIF) regarding the scope of the CIV Uniform Rules (and)/CIM Uniform Rules,

NOW THEREFORE I, [name and title of the Head of State, Head of Government, Minister for Foreign Affairs or a person having full powers], declare that the Government of [name of State], having reviewed the said declaration, hereby notifies in accordance with Article 24 § 3 of COTIF the inclusion/deletion of the following railway line(s) in/from the CIV List of railway lines (and)/CIM List of railway lines:

- [End points of the route]
- [Length of route in kilometres]
- [Name and address of the entity managing the infrastructure of the railway line] (optional)

Done at [place] on [date]

[Signature]

Annex XIII

Model instrument of inclusion of (a) maritime and/or inland waterway service(s) in the CIV list of maritime and inland waterway services and/or CIM list of maritime and inland waterway services

[HEAD OF STATE, HEAD OF GOVERNMENT OR MINISTER OF FOREIGN AFFAIRS]

FULL POWERS

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF FOREIGN AFFAIRS OR ANOTHER COMPETENT AUTHORITY]

INCLUSION OF (A) MARITIME (AND)/INLAND WATERWAY SERVICE(S) IN THE CIV LIST OF MARITIME AND INLAND WATERWAY SERVICES (AND)/ CIM LIST OF MARITIME AND INLAND WATERWAY SERVICE

WHEREAS, when international carriage being the subject of a single contract of carriage includes carriage by sea or transfrontier carriage by inland waterway as a supplement to carriage by rail, the CIV (and)/CIM Uniform Rules shall

apply if the carriage by sea or inland waterway is performed on services included in the CIV list of maritime and inland waterway services (and)/CIM list of maritime and inland waterway services,

AND WHEREAS the maritime and inland waterway services linking COTIF Member States¹ shall only be included in the lists with the agreement of those States,

AND WHEREAS the Government of [name of State] and the Government of [name of State] agreed¹ to include (a) maritime and/inland waterway service(s) in the CIV list of maritime and inland waterway services (and)/CIM list of maritime and inland waterway services²,

AND WHEREAS the Government of [name of State] and the Government of [name of State] agreed¹ to apply the liability regime³ in accordance with Article 38 of the CIM UR to that route, which will be the same for all undertakings included in the list of services,

I, [name and title of the Head of State, Head of Government, Minister for Foreign Affairs or another competent authority],
notify

the inclusion of the following maritime/inland waterway service in the CIV List of maritime and inland waterway services:

- [End points of the route],
- [Length of route in kilometres],
- [Name and address of the shipping company operating/
shipping companies jointly operating the service].

the inclusion of the following maritime/inland waterway

¹ Where applicable: this shall only be used for services linking COTIF Member States.

² Optional: (a) State(s) may decide to include services in both lists or in one of them.

³ This special liability regime is optional. Where applicable, this shall only be used if the sea route concerned is served by several undertakings to be included in the list at the request of several Member States.

service in the CIM List of maritime and inland waterway services:

- [End points of the route]
- [Length of route in kilometres]
- [Name and address of the shipping company operating/
shipping companies jointly operating the service]
- Application of the special liability regime in accordance
with Article 38 CIM Uniform Rules⁴

Done at [place] on [date]

[Signature]

⁴ Optional. States may agree to apply the special liability regime, or not.

Annex XIV

Model instrument of deletion of (a) maritime and/or inland waterway service from the CIV list of maritime and inland waterway services and/or CIM list of maritime and inland waterway services

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF FOREIGN AFFAIRS OR ANOTHER COMPETENT AUTHORITY]

DELETION OF (A) MARITIME (AND)/INLAND WATERWAY SERVICE(S) FROM THE CIV LIST OF MARITIME AND INLAND WATERWAY SERVICES (AND)/ CIM LIST OF MARITIME AND INLAND WATERWAY SERVICES

WHEREAS the Government of [name of State] (in agreement with Government of [name of State]) on [date] notified in accordance with Article 24 of the Convention concerning

International Carriage by Rail (COTIF) the inclusion of the following services:

- [End points of the route]
- [Length of route in kilometres]
- [Name and address of the shipping company operating/
shipping companies jointly operating the service]

I, [name and title of the Head of State, Head of Government, Minister for Foreign Affairs or another competent authority],
notify the deletion of the same.

Done at [place] on [date]

[Signature]

Annex XV

Model instrument of approval

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF
FOREIGN AFFAIRS OR A PERSON HAVING FULL POWERS]

INSTRUMENT OF APPROVAL

WHEREAS the modifications to [list of acts modified]¹ were
adopted by the [number] General Assembly held in [place] on
[date],

NOW THEREFORE I, [name and title of the Head of State, Head
of Government, Minister for Foreign Affairs or a person having full
powers] declare that the Government of [name of State], having
considered the above-mentioned modifications, approves them and
undertakes faithfully to perform and carry out the Convention in its
modified version.

IN WITNESS WHEREOF, I have signed this instrument of
approval at [place] on [date].

[Signature]

¹ For instance, the Convention concerning International Carriage by Rail (COTIF) and its Appendices [list of Appendices].

Annex XVI

Model instrument of non approval

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF
FOREIGN AFFAIRS OR A PERSON HAVING FULL POWERS]

INSTRUMENT OF NON-APPROVAL

WHEREAS the modifications to [list of acts modified]¹
were adopted by the [number] General Assembly held in
[place] on [date],

NOW THEREFORE I, [name and title of the Head of
State, Head of Government, Minister for Foreign Affairs or
a person having full powers] declare that the Government
of [name of State], having considered the above-mentioned
modifications, does not approve them,

IN WITNESS WHEREOF, I have signed this instrument of
non-approval at [place] on [date].

[Signature]

¹ For instance, [Article] of the Convention concerning International Carriage by Rail (COTIF) (and)/[Article] of the [Appendix] of the Convention concerning International Carriage by Rail (COTIF).

Annex XVII

Model instrument of objection

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF
FOREIGN AFFAIRS OR ANOTHER COMPETENT AUTHORITY]

INSTRUMENT OF OBJECTION

WHEREAS the modifications to [list of acts modified]¹ were adopted by the [number] Revision Committee/RID Expert Committee/Committee of Technical Experts held in [place] on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government, Minister for Foreign Affairs or another competent authority] declare that the Government of [name of State], having considered the above-mentioned modifications, lodges an objection against the following modification(s):

[list of modifications]

IN WITNESS WHEREOF, I have signed this instrument of objection at [place] on [date].

[Signature]

¹ For instance, [Article] of the [Appendix] of the Convention concerning International Carriage by Rail (COTIF).

Annex XVIII

Model instrument of withdrawal of objection

[HEAD OF STATE, HEAD OF GOVERNMENT, MINISTER OF
FOREIGN AFFAIRS OR ANOTHER COMPETENT AUTHORITY]

INSTRUMENT WITHDRAWAL OF OBJECTION

WHEREAS the Government of [name of State] on [date]
made an objection against the modification(s) adopted by
the [number] Revision Committee/RID Expert Committee/
Committee of Technical Experts held in [place] on [date]:

[list of modifications]¹,

NOW THEREFORE I, [name and title of the Head of
State, Head of Government, Minister for Foreign Affairs or
another competent authority] declare that the Government of
[name of State], having reviewed the said objection, hereby
withdraws the same with immediate effect/effect from [date].

Done at [place] on [date]

[Signature]

¹ For instance, [Article] of the [Appendix] of the Convention concerning International Carriage by Rail (COTIF).



Organisation intergouvernementale pour les transports internationaux ferroviaires
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