Technical and legal interoperability

Secretary General of OTIF François Davenne
Baku, 3 May 2016
COTIF – developing uniform law

- Founded in 1893 in Bern
- Applies to international traffic by rail
- Is international law
- Member States can make declarations not to apply selected parts of COTIF

**Legal interoperability**
- Freight / Passenger Contracts
- Dangerous Goods Regulation: Exchange of dangerous goods wagons
- Technical Regulation: Safe exchange of vehicles

**Technical interoperability**
Champ d’application géographique de la COTIF et ses appendices

Geografischer Anwendungsbereich des COTIF und dessen Anhänge

Geographical scope of COTIF and its appendices

État au 14 avril 2016
Situation on 14th April 2016
### Comparing EU and OTIF regulations

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<th>EU</th>
<th>OTIF</th>
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<td><strong>Objectives</strong></td>
<td>Improve efficiency and market share of rail</td>
<td>Promote, improve and facilitate international traffic</td>
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<td><strong>Scope of regulation</strong></td>
<td>Domestic and international traffic in EU</td>
<td>International traffic between OTIF Member States</td>
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<td><strong>Market model</strong></td>
<td>EU Member States are required to open their rail markets to competition</td>
<td>OTIF does not have requirements imposing a particular market model</td>
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<td><strong>Scope of application</strong></td>
<td>Interoperability and safety</td>
<td>Approval and use of vehicles</td>
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<td>Organisation of railways</td>
<td>Uniform contract law:</td>
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<td>Competition regulation</td>
<td>• passengers/freight</td>
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<td>Passengers’ rights</td>
<td>• use of vehicles</td>
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<td>Dangerous goods regulation</td>
<td>• use of infrastructure</td>
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<td>Dangerous goods regulation</td>
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Unified railway law to connect Europe, Asia and Africa:

Railways as international networks

**Connected**
- Purely national networks belong to the past
- A regional approach is vital

**Uniform**
- Common technical and contract law
- Common high level rules

**Interoperable**
- Common technical rules
- Common interfaces definition
- Partnership based approach with other organisations

- Developing an international interoperability model
- Modal shift towards significant Eurasian freight transport by rail
- Reducing GHG emissions and foster human development
OTIF partnerships

- **First Level:** International state organisations
  - OSJD, UNECE, ERA, GCC, ESCAP

- **Second Level:** Professional and user associations in the rail sector
  - CER/UIC/CIT
  - RailnetEurope
  - UNIFE
  - UIP
  - Dangerous goods industry

- **Third Level:** Professional and state organisations
  - WCO
  - ITJ
  - FIATA

- **Member States and/or member cooperation organisations of OTIF**
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12th General Assembly : The legal Appendices

COTIF- Convention concerning international carriage by rail + Appendices

Appendix A
CIV
Uniform Rules concerning the Contract of International Carriage of Passengers by Rail

Appendix B
CIM
Uniform Rules concerning the Contract of International Carriage of Goods by Rail

Appendix D
CUV
Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic

Appendix E
CUI
Uniform Rules concerning the Contracts of Use of Infrastructure in International Rail Traffic
Legal interoperability: Legal pyramid

- **Legal requirements covered by COTIF:** mandatory

- **Publicly available standard contracts:** voluntary

- **Not public**

**Increasing level of detail**

**Agreement between States makes it mandatory to comply with uniform rules.**

**Multilateral agreement between railways undertakings defining General Terms and Conditions to comply with OTIF uniform rules.**

**Intellectual property of a company. Compliance with GTC and COTIF.**
Unifying transport contracts for freight
How International law covers Euro-ASIatic traffic

- The unified railway law (EURL) developed under the aegis of UNECE provides an interface law between CIM and SMGS
- Single contract would improve Euro-Asian rail traffic dramatically
A zoom on private keeper contractual framework

The RU must ascertain that an ECM is assigned to each wagon - ATMF Art.15

The RU and the keeper have a contractual relation - CUV

The RU and ECM must exchange data about operation and maintenance - ATMF Art. 15

Keeper

The ECM is a servant of the keeper on a contractual relationship - CUV and ATMF Art. 15

ECM

Each vehicle, before it is admitted, must have an ECM assigned to it - ATMF Art. 15
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<td>CIV</td>
<td>CIM</td>
<td>RID</td>
<td>CUV</td>
<td>CUI</td>
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<td>ATMF</td>
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<td>Uniform Rules concerning the <strong>Contract of International Carriage of Passengers by Rail</strong></td>
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<td>Uniform Rules concerning the <strong>Validation of Technical Standards and Adoption of Uniform Technical Prescriptions applicable to Railway Material</strong></td>
<td>Uniform Rules concerning the <strong>Technical Admission of Railway Material used in International Traffic</strong></td>
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Technical interoperability: a general framework
Operational concepts for international rail traffic

**Exchange of vehicles**
Reconfiguring and preparation of train at border crossing station; other locomotive, other driver, other operational rules.

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**Interoperability**
Train preparation at point of departure

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Uninterrupted train movement across border, without changing train configuration or driver
Equivalence with EU law

EU

Authorisation for placing in service on the basis of EU-Law

2008/57/EC

Art. 3a § 1

COTIF

Admission to operation on the basis of ATMF, APTU

Art. 6 § 3

Art. 3a § 2

ATMF, APTU
Setting up interoperability: last General Assembly and further steps

Level 1
International transport of goods and passengers

Level 2
International exchange of railway vehicles

Level 3
Interoperability of trains in a network of different systems

Level 4
Unified railway Market

Market access
Competition regulation (not in scope of COTIF)

Accident investigation /Safety supervision.
Train driver licensing/Operational rules
Definition of separate tasks IM and RU
Safety responsibilities for all actors.
CCS compatibility/Telematics applications
Interface train/infrastructure

ATMF, APTU
Train composition requirements.
Accessible national vehicle registers
Vehicle requirements in UTP.
Maintenance: ECM

CUV, RID
Contract of carriage CIM, CIV.
Standard contracts.
Regulations for the Transport of Dangerous Goods

UN Recommendations on the Transport of Dangerous Goods (Model Regulations)

- ICAO Technical Instructions (aviation)
- IMDG Code (maritime)
- Regulations for the (European) Land Modes
  - RID (rail)
  - ADR (road)
  - ADN (inland waterways)
OTIF – OSJD – EU Member States

État au 15 janvier 2016
Stand 15. Januar 2016
Situation on 15th January 2016
Transport of dangerous goods: an harmonized regime

OTIF

OSJD

Harmonised provisions of RID and SMGS Annex 2

RID specific requirements (e.g.: 1435 mm gauge)

SMGS Annex 2 specific requirements (e.g.: 1520 mm gauge, extreme climatic conditions, predominance of SMGS, SMPS)

Standards

CEN

CENELEC

ISO

UIC

Standards

UIC

ISO

GOST

CEN

CENELEC
COTIF – A forum for developing uniform law
COTIF – developing uniform law for interoperable networks

- International binding law
- A bridging concept
- An approach based on partnership
- Railways as networks: connected, uniform and interoperable

Freight / Passenger Contracts

- Legal interoperability

Dangerous Goods Regulation

- Exchange of dangerous goods wagons
- Towards full interoperability

Technical Regulation

- Technical interoperability
Thank you for your attention