COTIF and its Appendices
What is important for Azerbaijan as a new Member State

Workshop “Passengers, goods and dangerous goods“, Baku, 3-4.5.2016
Structure of the Convention

02
Scope of application

03
Azerbaijan’s accession to COTIF

04
Rights and obligations of Member States

05
Contractual freedom of the parties to the contract

06
Interpretation issues, disputes
Structure of the Convention
COTIF: Convention and Appendices
### Seven Appendices of COTIF

#### Relation to EU and UN rules

<table>
<thead>
<tr>
<th>Appendix</th>
<th>Uniform Rules</th>
<th>Concerning</th>
<th>Type of International Carriage/Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>CIV</td>
<td>Uniform Rules concerning the Contract of International Carriage of Passengers by Rail</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td>CIM</td>
<td>Uniform Rules concerning the Contract of International Carriage of Goods by Rail</td>
<td></td>
</tr>
<tr>
<td>C</td>
<td>RID</td>
<td>Regulation concerning the International Carriage of Dangerous Goods By Rail</td>
<td></td>
</tr>
<tr>
<td>D</td>
<td>CUV</td>
<td>Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic</td>
<td></td>
</tr>
<tr>
<td>E</td>
<td>CUI</td>
<td>Uniform Rules concerning the Contracts of Use of Infrastructure in International Rail Traffic</td>
<td></td>
</tr>
<tr>
<td>F</td>
<td>APTU</td>
<td>Uniform Rules concerning the Validation of Technical Standards and Adoption of Uniform Technical Prescriptions applicable to Railway Material</td>
<td></td>
</tr>
<tr>
<td>G</td>
<td>ATMF</td>
<td>Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic</td>
<td></td>
</tr>
</tbody>
</table>
Scope of application
Application of Appendices to COTIF by Member States

41 OTIF Member States apply all the 7 Appendices, among others the Baltic States and Ukraine

As far as **Members of CIS** are concerned:

- **Russia**  CIM only
- **Armenia**  all 7 Appendices
  (formally: no declaration made)

- **Georgia**  CIV, CIM, RID
- **Azerbaijan**  CIV, CIM, RID
Scope of application of Appendices A and B

- General principle: **application to railway traffic on the whole railway infrastructure**

- Exception: **reservation on the scope** (only possible on accession, for SMPS/SMGS States parties) – regarding CIV and CIM: **only parts of railway infrastructure are subject**

  - **Ukraine:** development in several steps, today 1230 km CIM lines
  - **Estonia:** Tallinn – Tapa – Valga line
  - **Russia:** Baltiysk, Ust-Luga, Kavkaz (all of them: port-railway stations)
  - **Georgia:** Gardabani-state border with Turkey (+ CIM only Poti and Batumi, both of them port-railway stations)
  - **Azerbaijan:** Baku – Boyuk-Kesik (+ CIM only Alyat port – railway station)
Azerbaijan’s accession to COTIF
Azerbaijan’s instrument of accession

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 Republic of Azerbaijan will apply these Uniform Rules on the following railway lines:
- The Baku – Boyuk-Kesik railway line (503 km), after the new Baku-Thbriti-Kars railway line is put into operation;
- The railway line (6 km) between the Alyst Port and the Alyst Railway Station, after this line is put into operation.

Declaration of the Republic of Azerbaijan in accordance with the first sentence of Article 42 § 1 of COTIF:

In accordance with Article 42 § 1 of COTIF, the Republic of Azerbaijan reserves the right not to apply the following Appendices:
- The Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic (CIV – Appendix D to the Convention);
- The Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI – Appendix E to the Convention);
- The Uniform Rules concerning the Validity of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic (APTU – Appendix F to the Convention);
- The Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic (ATMF – Appendix G to the Convention).

NOW THEREFORE, I, Elmar MAMMADYAROV, Minister of Foreign Affairs of the Republic of Azerbaijan, declare that the Government of the Republic of Azerbaijan accedes to the above-mentioned Convention and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this Instrument of Accession and affixed the Seal of the Ministry of Foreign Affairs of the Republic of Azerbaijan.

DONE at Baku, on the 6th day of May, Two Thousand and Fifteen.

H.E. FRANCOIS DAVENIE
SECRETARY-GENERAL
OF THE INTERGOVERNMENTAL ORGANIZATION FOR INTERNATIONAL CARRIAGE BY RAIL

BERN

[Signature]
Accession to the version of the Convention in force

• Currently applicable: 1999 version of COTIF, in force since 1.7.2016, revised in 2009, 2014 and 2015

• During the preparatory process preceding the deposit of the accession instrument the Convention and/or its Appendices may be modified
  
  ➢ the State acceding has to transpose the version in force into its national law at the point in time when the accession comes into effect

  ➢ the State acceding also has to transpose into its national law all modifications adopted by competent OTIF bodies, even if they have not yet entered into force (for entry into force of these modifications only the approval or objections made by those Member States count which were Member States at the point in time of the decision (taken by OTIF’s General Assembly or one of its Committees) – no need to deposit any additional instrument with regard to these amendments
Azerbaijan’s reservation on the scope

Reservations made on accession
CIV UR: Baku – Boyuk-Kesik
CIM UR: Baku – Boyuk-Kesik and Alyat port – Alyat railway station
RID: no reservation was possible

Regarding the application of the CIV and CIM UR, other railway lines may be subject later and shipping services using Alyat port may be subject in addition – rail-sea carriage under the CIM legal regime will be possible
Multimodal transport subject to the CIV/CIM legal regime (rail-sea)

- Agreement of the States concerned/connected with a shipping service on the legal regime to be applied

- Communication of shipping services to be subject to the CIV/CIM UR to the Secretary General

Data requested

- Name and address of the shipping company operating the service
- End points of the service, i.e. ports
- Length in kilometers

- These services will be listed in the CIV/CIM List of maritime and inland waterway services
Rights and obligations of Member States
Apply COTIF and its Appendices with the exception of those Appendices against which Azerbaijan made a declaration in accordance with Article 42 of COTIF

Participate in developing COTIF and its Appendices
• Participation in working groups
• Positions, proposals
• Participation in meetings of OTIF bodies dealing with revision of the Convention, i.e. General Assembly Revision Committee RID Committee of Experts – with a right to vote CTE – without a right to vote
• Transpose the amendments adopted

Rule: The application is mandatory (stakeholders, courts and other State institutions.)

In case of any doubt an opinion on disputes arising from the interpretation or application of COTIF can be requested from the Secretary General.
COTIF revision procedure: modifications adopted by General Assembly

The Convention itself

1. Proposal submitted
   - Member States or Secretary General

2. Proposal considered
   - Revision Committee

3. Proposal adopted
   - General Assembly

4. Modification approved
   - 2/3 of Member States

Modification enters into force

12 months

Appendices

Proposal submitted
- Member States or Secretary General

Proposal considered
- Revision Committee

Proposal adopted
- General Assembly

Modification approved
- 1/2 of Member States

Modification enters into force

12 months
COTIF simplified revision: modifications adopted by Committees

- Proposal submitted: Member States or Secretary General
- Modifications decided: Revision Committee or Committee of Technical Experts
- Modifications notified: Secretary General
- Modification enters into force: 1st day of the 12th month following notification or 6th month
Administrative issues – participation and information

• Pay membership contribution

• Right to be informed of decisions of the Administrative Committee, in particular
  – Work programme
  – Budget
  – Annual report
  – Approved minutes of the meetings of the Administrative Committee

• Each Member State can be elected as a member of the Administrative Committee, but only 1/3 are represented on the Committee (+ 1/3 as deputy members)

• Submit applications for posts in the Secretariat in case of call for applications (all senior posts are internationally advertised); GA elects the Secretary General, for other senior posts the Administrative Committee is involved: decides/approves
OTIF’s website

Text of the Convention including all its Appendices

Depositary table, overview of declarations and reservations, lists of lines, maps

Publications: work programme, annual report, Bulletin, press releases

Dates of meetings, working documents

Notifications of new texts adopted
Contractual freedom of the parties to the contract
Appendices A, B, D and E – contractual regulation

Appendices A, B, D, E – contain mandatory legal rules, allow (where expressly provided for) derogations by agreement of the parties

Contractual relation

Carrier – passenger

Carrier – consignor (consignee)

Railway undertaking – keeper

Carrier – infrastructure manager
Contractual freedom and membership of stakeholder associations

Carriers, wagon keepers, infrastructure managers

Space left for contractual freedom at legislative level = space for standardised solutions at stakeholder associations level

Different situation: COTIF contractual regulations and SMGS/SMPS (e.g. freight tariffs, period of validity of tickets)

Advantage of membership in stakeholder associations: use of standardised terms and conditions, model transport documents, model contracts
Interpretation issues, disputes
When an interpretation issue or a dispute arise

- Address a request for opinion to OTIF SG
  - Opinion on interpretation
  - Good offices to settle disputes between the parties concerned
- Arbitration
- Judicial proceedings