TO THE GOVERNMENTS OF THE MEMBER STATES OF OTIF

Amendments to the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID)
Together with circular A 81-03/502.2006 dated 31 January 2006, we sent you in document No. OCTI/RID/Not./42 the amendments to the 1 January 2005 edition of RID. These amendments were the result of discussions at the 42nd session of the Committee of Experts on the Transport of Dangerous Goods (Madrid, 21 – 25 November 2005).

Under Article 21 § 2 of COTIF, decisions of the Committee of Experts on the Transport of Dangerous Goods shall be deemed to be adopted unless one-third of the Member States have objected within four months from the date of notification.

This period expired on 31 May 2006.

No Member State has lodged an objection against the amendments. In accordance with the decision of the Committee of Experts on the Transport of Dangerous Goods, these amendments will enter into force on 1 January 2007, with a transitional period of 6 months, i.e. with a transitional period up to 30 June 2007.

In view of the large number of amendments, a new edition of RID will be published in autumn 2006, which we will send to you as soon as possible.

Attached at Annex is corrigendum 1 to the above-mentioned notification texts, in which numerous editorial and substantive amendments have been taken into account. Please note in this connection that the majority of the editorial amendments result from the later editorial deadline for ADR. This corrigendum should ensure that the texts of RID and ADR are also harmonized as far as possible from a linguistic point of view.

We should also like to inform you that the new COTIF will enter into force on 1 July 2006. RID will then be the technical annex to Appendix C of the new COTIF. As a result of this, some amendments to RID are required. These are set out in the attached corrigendum 3 to the 2005 edition of RID and they will also enter into force on 1 July 2006.

The non Member States of the European Union that have not yet ratified the Vilnius Protocol will be confronted with a new legal situation. In accordance with Article 20 § 3 of COTIF 1980, when the decisions of the 5th General Assembly enter into force, application of the CIV and CIM Uniform Rules will be suspended in respect of traffic with and between those Member States which, one month before the date of entry into force of the Vilnius Protocol, have not yet deposited their instruments of ratification, acceptance or approval.

This suspension will not affect Member States which, without having deposited their instrument of ratification, acceptance or approval, have notified the Central Office that they will apply the amendments adopted by the General Assembly (application de facto).

Thus application of RID as an executive order for Article 4 d) and Article 5 § 1 a) of CIM is suspended for those States that have not ratified the 1999 Protocol. However, for the Member States of the European Community, the “RID Framework Directive” (Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail) continues to apply, so that in effect, the requirements of RID are binding upon these States.

The non Member States of the European Union that have not yet ratified the new COTIF must therefore check what legal requirements exist in accordance with their national law for the transport of dangerous goods and the extent to which application of the rules of RID is necessary, as these rules reflect the current state of science and technology and therefore define the degree of care necessary in the carriage of dangerous goods. As a rule, provisions under public law, such as the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID – Appendix C of COTIF), are not subject to disposal by the parties.
As both suspension of application and application de facto would result in numerous legal uncertainties and problems, we recommend that the competent authorities for the transport of dangerous goods get in touch with the bodies responsible for ratification and work towards ratifying the Vilnius Protocol as soon as possible.

Yours faithfully,

(Stefan Schimming)
Director General

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Annexes
– Corrigendum 1 to the 2007 notification texts
– Corrigendum 3 to the 2005 edition of RID

cc for information:
– the railway undertakings of the Member States of OTIF
– relevant international organisations