

Editorial

Through ticketing and the electronic consignment note



If a passenger has an accident, the liability of the carrier is determined by the contract of carriage in question. The content of the contract, and in particular the competent courts and the law that applies, follow from the ticket. For this reason, everything depends on the ticket, whether, for example, a carrier can be sued in the United States as well as in Europe. The carrier must formulate his risk and insurance policies to take account of these factors.

The through ticketing that European Commissioner Kallas has in mind is therefore not quite so simple as it might appear at first glance. Much less so if the various modes such as road, air and rail are to be brought together. Our article on page 4 provides further details of the options offered by through ticketing and the limitations to it.

What a ticket is for passenger traffic, a consignment note is for freight traffic. The new common CIM/SMGS consignment note thus represents a great success story since not only does it provide evidence of two contracts subject to quite different legal regimes but it also makes multimodal carriage of freight by sea possible. This in turn provides attractive opportunities to move traffic between Russia and Germany across the Baltic and between the Ukraine and Turkey across the Black Sea. Read more on this topic on page 6.

Of course it would be splendid if it were possible to travel from the Brandenburg Gate to the Arc de Triomphe with just one ticket but passengers have other preoccupations at present. Passengers would be pleased if they could simply transfer in Cologne from a late-running DB train to the next Thalys without problem and then be compensated at their destination in accordance with the PRR despite the fact that the delay was caused by the origin railway.

And of course it would be splendid if brand-new cars could be transported from Wolfsburg to San Francisco with a single consignment note. VW would be pleased however if it were simply possible to consign to Rotterdam electronically without using paper documents.

More satisfied customers, both passenger and freight, are possible, even within today's legal framework. So let's get on with it!

Thomas Leimgruber
Secretary General to the CIT

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Event

The 2010 General Assembly of the CIT

to be held in Bern on 18 November 2010
will be followed by a debate on

Future Challenges : The role of the CIT

in which the following speakers will take part:

- Henriette **Chaubon**, Legal Director, SNCF
- Jean-Luc **Dufournaud**, Chairman-designate of the CIT
- Rainer **Freise**, retiring Chairman of the CIT
- Jean-Pierre **Loubinoux**, Director General of the UIC
- Johannes **Ludewig**, Executive Director of the CER
- Marianne **Motherby**, Legal Director, DB
- Stefan **Schimming**, Secretary General of the OTIF

The panel discussion – open to the public – will take place from 11.00 to 12.30 in the CIT offices at Weltpoststrasse 20, 3015 Bern.

Transport Law and Policy

Jordan became an associate member of OTIF on 1 August

Well in advance of bringing international lines into service, the Hashemite Kingdom of Jordan has joined OTIF as an associate member so that it can prepare for making good use of its network when the time comes. Jordan will monitor the work being done within the organisation, in particular on technical interoperability and rail facilitation. The construction of the new Jordanian network is planned to start in 2011 and the whole 950km network is expected to be complete by 2014.

For OTIF, this represents a quite explicit undertaking that passengers and freight making transcontinental movements will be carried in accordance with the contractual framework laid down in COTIF.

Jordan became the forty-sixth Member State of OTIF on 1 August. The OTIF website contains a complete list of Member States (<http://www.otif.org>).

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Original: FR



Development of the regional railway network.

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Changes to the RID in 2011

The next edition of the RID enters into force on 1 January 2011. In addition to the amendments approved in November 2009, the OTIF RID Expert Committee decided on further revisions, in particular to the provisions of Chapter 7.7 RID [*Carriage of dangerous goods as hand luggage or registered luggage or in or on board motor vehicles (car on train)*]. As usual, sub-section 1.6.1.1 provides for a general transition period until 30 June 2011 for the application of RID 2011.

Facilitation of piggy back and lorry shuttle movements

Although up to now it has been frequently necessary to label, over-label or placard lorries and trailers for their journeys by rail on piggy-back and lorry-shuttle trains, that will no longer be

necessary with effect from 2011. Of course that is on condition that the lorries and trailers are already properly marked in accordance with the ADR (*European Agreement concerning the international carriage of dangerous goods by road*). The ADR provisions are now in fact harmonised so that the markings for movement by road also satisfy the specific requirements for movement by rail.

Clarity for passenger traffic

Dangerous goods are only permitted to be carried as hand luggage or registered luggage on passenger trains or in or on board motor vehicles on motorail trains exceptionally, in limited quantities and provided the provisions of the RID are respected. This principle has not changed. However the provisions were spread about in several sub-paragraphs of section 1.1.3. Because passengers are normally not familiar with the RID, the Committee of Experts decided to group all these provisions in Chapter 7.7 and to present them in a user-friendly manner.

CIT publications

Since COTIF 1999 came into force on 1 July 2006, the CIT has produced a summary of the dangerous goods that passengers may take with them as an appendix to the GTC-CIV (with effect from 3 December 2009 as an appendix to the GCC-CIV/PRR). The next version of this summary will take account of the new structure of the regulations in the RID and also clarify that dangerous goods in exempted quantities may be taken into trains, provided, if appropriate, they are packaged in accordance with the regulations.



New rules for the carriage of dangerous goods with effect from 1 July 2010.

DB AG/Hans-Joachim Kirsche

Requirements for staff having contact with dangerous goods

Section 1.10.2 RID covers the training of persons who have contact with dangerous goods. This concerns not only the undertaking's dangerous goods safety advisor but also all the staff who come into contact with dangerous goods in their daily work. Two new sub-sections, 1.10.2.3 and 1.10.2.4 have been included in the RID; they provide that before staff come into contact with dangerous goods they must be trained on the security aspects of dangerous goods. The training must be regularly refreshed. Employers are required to keep documentation detailing the training and to make it available to the employee or the competent authority on request.

Instructions in writing for action to take in an emergency

New RID section 5.4.3 requires that "instructions in writing according to the RID" should be available in a readily accessible place in the cabs of locomotives. An obligation is also laid on the carrier to inform the driver of the dangerous goods loaded on the train. The driver is then required to consult the instructions for details of the action to be taken in the event of an accident or incident. The instructions are required to correspond to the format of a four page specimen defined in sub-section 5.4.3.4.

To facilitate the work of members, the new section 5.4.3 RID (excerpt from the notification from OTIF) has been loaded on to the CIT website (www.cit-rail.org) under Freight traffic-

Legislation-RID 2011/5.4.3 in English, French and German. For other languages, the official translations in the appropriate national language(s) should be used.

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Original: DE



Petrol for vehicles for PRM now comes within the scope of the RID.



The EU opens the European e-Justice Portal

On the 16 July 2010, a new on-line portal in twenty-two languages was brought into use; it will offer quick answers to legal questions and assist enquiries in the various EU Member States. Viviane Reding, Vice-President of the European Commission responsible for Justice, Fundamental Rights and Citizenship said that "eventually, the site will modernise and streamline the way people receive legal information and advice" and emphasised that "citizens will get answers in their own language and they will get them quickly".

The first version of the portal has over twelve thousand pages of content and contains information and links on law and legal practice in all the EU Member States, for example, on help with the costs of legal action, on the training of lawyers, on video-conference services, legal databanks, electronic bankruptcy registers and land registries. At the beginning of 2011, information on the rights of victims and claimants in all EU Member States will be added, including information about the handling of traffic offences in the various EU states.

The creation of this important legal tool is part of the Council's November 2008 Action Plan on European e-Justice 2009-2013. This action plan has the objective of facilitating access to justice and simplifying court procedures which have international aspects. The creation of a European e-Justice portal is seen as part of this process. Information and communication technologies can thus play a key role in improving the way the systems of justice in the various EU Member States work since they can ease the work of lawyers and promote cooperation between justice authorities.

In the context of its Europe 2020 strategy, the Commission has been using on-line technologies and modern procedures to create the tools for reducing costs and simplifying international court procedures which the Council's action plan requires.

Further information and downloads of data are available from <https://e-justice.europa.eu>.

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Original: DE

accidents to be resolved? How can delays and disruption on one or more modes be managed? These uncertainties do not help the introduction of through tickets. To allow a series of journeys to be linked together in one and the same contract, both the carriers and the passengers must be able to rely on a standardised legal framework which is clear, transparent and fair. Today, such

a framework of multimodal law still has to be created, and not only within Europe. The CIV Uniform Rules provide a starting point for such a framework from which a proper international rail/sea/air/road convention can be developed.

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Original: FR

Re-sizing international tickets – railway undertakings make changes

New requirements for CIT and UIC members and technical progress often go hand in hand. The replacement of a generation of printers in ticket offices is thus linked with the desire to use less paper and to make rail tickets more manageable (i.e. to make them wallet-sized). Credit card size is the slogan and the term is credit card size tickets (CCST). This size is based on ISO standards in the 7800 series and is the same as that used in many states for identity cards.



Is this the future? (fictitious data).

The first ideas for such a change were ventilated in October 2009 and covered the way data was to be shown, further proposals were made in February 2010, this time for the stationery to be used.

The ideas were taken up jointly by the CIT and UIC. They are now jointly working on the details so that solutions for practical application are available, so that these solutions can be implemented without problems, so that the tickets are acceptable to customers and so that the tickets can be recognised by partner railway undertakings. Revenue protection and protection from forgery have a particular importance.

Good legibility is of course very important, both for passengers and the staff checking the tickets in trains. Accordingly, it is planned to limit the choice of font and of font size for credit card sized tickets. In principle it is planned to provide specimen formats, at least for the most common ticket types (IRT, NRT, RPT, boarding pass).

Two railway undertakings plan to introduce credit card sized tickets in 2012. The new size will be in addition to the existing IATA size. Further railway undertakings are completely free to decide to change ticket size if they wish.

The CIT manuals will be revised to take account of the new size and UIC leaflet 918-2 will be augmented with a new section. Since the European Railway Agency has taken part in the work from the beginning as an observer, subsequent inclusion of the credit card sized ticket in the TAP-TSI technical documentation is not expected to cause any great difficulties.

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More and more success in identifying forged tickets

Summer time – travel time – forgery time?

But it isn't time for forgeries on the railways! On-train ticket examination staff are discovering more and more forgeries, thanks to good training and a few technical aids. Whether the ticket is photocopied, is printed on forged paper or with falsified data or altered by hand, hardly a cheat travels without being detected.

Rail experts and the police, working together in the Colpofer "Fraud/Ticket Forgery" Working Group, have decided to put a stop to forgeries. Their initiative is also intended to protect buy-

ers acting in good faith from nasty surprises during their journeys. Everyone should be on their guard against offers that are too good to be true! In addition to administrative hassle, confiscation of the tickets, heavy fines, excess fares and prosecution may be the consequences.

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Freight Traffic

Russia would like to harmonise law

Sergei Aristov, Deputy Minister of Transport of the Russian Federation, opened the discussions at the second Global Rail Freight Conference (GRFC) by declaring that “harmonised legal regimes for transcontinental freight traffic by rail between Europe/Russia and Asia/China are to be desired. The common CIM/SMGS consignment note represents the first stage in simplifying and optimising these movements”. The conference took place in St. Petersburg on 6 & 7 July 2010 and was attended by more than three hundred participants from thirty countries. Following the introduction, participants then took part in the various themes of the conference.

At the “Second Round Table” on the theme of “Legal Harmonisation and Digitisation of Transport Documents” acknowledged experts from the RZD, LDZ, OTIF, the CIT and UIC discussed the feasibility of integrated legal solutions for transcontinental freight traffic by rail within the COTIF/CIM and the SMGS areas. The round table was chaired by Victor Zhukov, Deputy Chairman of the Committee of the OSJD. The First Vice-President of the Russian Railways and co-chairman of the GRFC, Vadim Morozov, also took part in the panel discussion.

The existence of two legal systems, the CIM and SMGS, with differing provisions for liability, represents a significant barrier to the free movement of transcontinental freight traffic by rail. Now that the standard process for handling and settling CIM/SMGS claims, which the project sponsors (the CIT and OSJD) instigated, is in place, they believe it is necessary to go further to study which of the liability provisions in the CIM and SMGS can be harmonised for CIM/SMGS traffic.

The next stage in the CIT/OSJD project to make the CIM and SMGS legally interoperable is therefore targeted towards harmonising liability by using Special Conditions of CIM/SMGS Carriage (SC CIM/SMGS) to create a practical contractual framework. The SC CIM/SMGS may also form the inspiration for



The CIT presents the next stages of the CIM/SMGS project.

further legislative work at intergovernmental level, for example for work initiated by the United Nations Economic Commission for Europe (UNECE).

Liberalisation and globalisation of markets lead to an increased demand for the movement of freight traffic by rail between Europe/Russia and Asia/China. Both railways and customers forecast an enormous potential for the near future. The creation of the common CIM/SMGS consignment note and the legal procedures which accompany it help to eliminate non-physical barriers quickly and cost-effectively. They represent the first step on the way to simplifying the movement of freight by rail within the areas in which the CIM and SMGS apply.

The next steps must follow quickly, as Jean-Pierre Loubinoux, Director General of the UIC and co-Chairman of the GRFC, emphasised at the end of the conference so that “optimodality” between the modes can be created quickly in order to provide transport services on a global scale.

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Original: DE

The common CIM/SMGS consignment note: now in use from the Atlantic to the Pacific, both on land and by sea

Coverage of the whole RZD network

In its letter of 6 September 2010, the Russian Ministry of Transport authorised the use of the CIM/SMGS consignment note over the whole rail infrastructure of the Russian Federation (amounting to some 85 000 km, 5 000 stations and including the 1067 mm gauge (3' 6") network on the island of Sakhalin). This significant extension of the scope of the common CIM/SMGS consignment note also includes the Trans-Siberian and the Baikal-Amur (BAM) main lines which have roles as through routes for rail traffic between Europe and Asia.

Following that, Mongolian Railways (MTZ) notified that the common CIM/SMGS consignment note could be used over its rail network without restriction. The rail route through Mongolia is an important transit route between China and Russia and shortens transit times by up to three days. Thus, international freight traffic by rail can now be consigned without restriction from the Atlantic to the Pacific using a single common transport document.

The common CIM/SMGS consignment note is only the first step. To create even more benefits for customers, it is planned to provide harmonised liability provisions for this traffic. The legal principles for these provisions are already well advanced and should be available in 2011.



 The CIM/SMGS consignment note applies over the whole of Russia right through to the Pacific.

Multimodal consignments using the common CIM/SMGS consignment note

The accession of the Russian Federation to COTIF/CIM, RZD's membership of the CIT and the addition of the Sassnitz-Baltisk and Sassnitz-Ust-Luga maritime services to the CIM list all play an important role for rail ferry services on the Baltic. The cooperation between DB Schenker Rail DE and RZD offers the opportunity to consign these important rail-sea traffics using the CIM/SMGS consignment note. Use of the CIM/SMGS consignment note on the Sassnitz-Mukran and Klaipeda routes is part of a second project.

Use of the CIM/SMGS consignment note on the Black Sea is also an option but a precondition is that Bulgaria, the Ukraine and Turkey must list the services in the CIM list of maritime services in advance.

In its letter of 13 August 2010 to the CIT General Secretariat, UZ expressed the desire to list the ferry route between Ilichevsk in the Ukraine and Derince in Turkey in the CIM list of maritime services. This would also include the land section from the quay to Ilichevsk-ferry station. UZ is intending to apply the common CIM/SMGS consignment note to these multimodal traffics without restriction so that reconsignment and the creation of a new

consignment note are both eliminated. The common CIM/SMGS consignment note will thus reduce costs and improve transit times for these important rail-sea traffics for high value goods. The CIM/SMGS consignment note is also recognised as a customs transit document by the Ukrainian customs authorities; this brings additional reductions in cost and time. The CIT will energetically support its members, UZ and TCDD, in developing this project and provide coordination between them and OTIF.

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Use of the Infrastructure

Return to legal certainty and consistency

The appendices to the Convention concerning International Carriage by Rail (COTIF) laying down the provisions for infrastructure (Appendix E, CUI), railway equipment (Appendix F, APTU) and their technical approval (Appendix G, ATMF) have now been aligned with EU law. The amended appendices will enter into force on 1 December 2010, thus bringing four years of legal uncertainty for the railway community in Europe to an end.

As readers will be aware, at the request of the Commission, EU Member States deposited reservations against the CUI, APTU and ATMF shortly before COTIF entered into force. The wave of declarations from EU COTIF states was triggered by the European Union's realisation that some provisions of the convention were not compatible with EU law.

To resolve these problems, the EU and OTIF set up a working group with equal representation. As a result of the constructive cooperation between OTIF, its Member States and the European Commission, amendments to the appendices were agreed last year.

As the Deputy Secretary General of OTIF, Dr Gustav Kafka, said in Bern, "in order to restore legal certainty in the rail sector, the Member States that have made a declaration not to apply Appendices E, F and G must withdraw these declarations in good time, as there is absolutely no need for them any longer".

Not just necessary, but urgent too

The CIT believes that withdrawal of the reservations – at least the reservations against the CUI – is not only necessary but urgent. The Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic contain a balanced framework for liability which covers this complex area comprehensively and reliably. Not having the CUI system of liability causes great legal uncertainty which tends to disadvantage carriers. A particular problem is the absence of a mechanism for recourse for damages, since, in accordance with the CIV and CIM, damages have to be paid out to customers even when the cause is infrastructure related.

Accession of the EU to COTIF

The EU backed away from the Accession Agreement which had already been initialled and submitted to the ninth General Assembly of OTIF (on 9 & 10 September 2009), instead it proposed a new disconnection clause. The negotiations for accession are currently at a standstill. The disconnection clause is the problem of substance; the language question the problem of form.

The CIT believes it is important that discussions about the accession of the EU to COTIF do not hold up the withdrawal of the reservations against the COTIF appendices. The CIT believes it is crucial that the accession of the EU does not put COTIF, as international standard law applying across and beyond the EU, in question.

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Original: DE



The CUI Uniform Rules will soon apply throughout Europe.

Photo© SBB

CIT Itself

The Executive Committee prepares for the 2010 General Assembly

The CIT's Executive Committee held its second meeting of the year in Bern on 23 September 2010. Preparation for the General Assembly (to be held on 18 November) was the principal item on the agenda. Proposals for the 2011 work programme and the budget for 2011 were approved.

Increasing the number of categories of CIT membership

Several changes to the CIT statutes were also approved for submission to the General Assembly. These changes are intended to

- increase the number of categories of full and associate members in order to facilitate the membership of undertakings which do not move international traffic but which nevertheless make use of CIT documentation or services,
- define to what extent CIT documentation binds members,
- amend the algorithm used to calculate CIT subscriptions slightly to take account of the increase in the resources committed to passenger traffic.

Withdrawal of declarations not to apply the CUI Uniform Rules

When discussing COTIF-related issues, the committee took note of the progress being made in the accession of the European Union to COTIF and the entry into force of the revised CUI Uniform Rules on 1 December 2010. In legal terms, a clear distinction is to be made between these two issues. In the case of the second issue, at stake is the withdrawal of the declarations not to apply the CUI Uniform Rules by those states which have deposited them. Once this is done, the new, 1 December 2010, version of the Uniform Rules (which has been approved by the European Union, too) can be applied.



All the members of the Executive Committee prepare for the 2010 General Assembly.

The CIM/SMGS consignment note is increasingly being used

When considering the project to make the CIM and SMGS legally interoperable, the committee noted the increasing use of the CIM/SMGS consignment note. Some half of all CIM/SMGS traffic is now covered by the new consignment note and recent decisions to extend its scope in Russia and to Mongolia are very welcome. The same welcome applies to the drafting of uniform rules for liability for loss and damage. In due course, these rules will be added to the CIM/SMGS Consignment Note Manual as a new appendix.

Tribute to Chairman Rainer Freise

Finally, since it was Chairman Rainer Freise's last meeting before his retirement at the end of the year, he was warmly thanked for his unrelenting commitment to the CIT.

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Original: FR

CIT Diary of Events

Date	Event	Location
19/20 October	CIM Working Group	Bern
26/27 October	CUI Committee	Bern
18 November	General Assembly of CIT	Bern
25 November	CIM/SMGS Co-ordination Group	Berlin
26 November	CIM/SMGS Steering Group	Berlin
1/2 December	CIV Working Group	Bern

Events with CIT participation

Date	Event	Location	CIT contact
14 October	CER Customs Meeting	Brussels	Nathalie Greinus
14 October	UIC Passenger Forum	Paris	Thomas Leimgruber
15 October	Liaison Meeting with Customers Organisations	Brussels	Isabelle Oberson
15 October	1. Luzerner Transport- und Logistiktage	Lucerne	Erik Evtimov
18 October	UIC Ticketing Action Group	Paris	Max Krieg
20/21 October	UIC Working Group TAP Maintenance and Development	Paris	Max Krieg
21 October	CEN Working Group Indirect fulfillment	Paris	Max Krieg
21 October	40 years UIRR	Brussels	Henri Trolliet
22 October	Meeting SNCF: PRR	Paris	Isabelle Oberson
27 October	e-RailFreight Project Manager Meeting	Paris	Henri Trolliet
27/28 October	UIC's Expert Group RID	Odense (DK)	Max Krieg
1-3 November	UNECE Group of Experts on Euro-Asian Transport Links	Tashkent	Erik Evtimov
2-4 November	RID Committee of Experts on the Transport of Dangerous Goods of the OTIF	Luxembourg	Max Krieg
4 November	Meeting UIC-CIT	Paris	Thomas Leimgruber
9 November	Meeting CIT-RNE	Brussels	Thomas Leimgruber
11 November	SBB Conference: Eisenbahn-Regulation in Europa und der Schweiz	Bern	Erik Evtimov Isabelle Oberson
16/17 November	OTIF Rail Facilitation Committee	Bern	Erik Evtimov
18/19 November	UNECE Working Party on Rail Transport	Vienna	Erik Evtimov
19 November	UIC leaflet 471-1	Paris	Isabelle Oberson
24 November	Raildata 15th Anniversary	Florence	Henri Trolliet
25 November	IPAAB/KAIPV/OCDIV – Annual Meeting	Hildesheim (DE)	Max Krieg
1 December	UIC Regional Assembly Europe	Paris	Henri Trolliet
9/10 December	ERA Conference: Passengers' Rights: Strengthening the role of transport users	Trier	Isabelle Oberson
14 December	CER Freight Focus Group	Brussels	Erik Evtimov

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