

Multimodality issues for rail transport

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Erik Evtimov, Deputy Secretary General



Summary



- Difficulties and statutory framework
- CIT products
- Perspective

Multimodality– Difficulties and statutory framework

Legal difficulties

- Often mandatory modal conventions
- Different liability conditions and limitations
- Limitation of the **network liability system**

International conventions

- CMR – Art. 2
- Montreal Convention – Art. 38
- Geneva Convention of 1980
- Rotterdam Rules

Contractual solutions

- Through bill of lading
- UNCTAD/ICC Rules



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The CIM Uniform Rules: Scope (Art. 1 CIM)

Transfrontier carriage by rail

- Mandatory application between two Member States of the OTIF (art. 1 § 1 CIM)
- Application between two States, at least one of which has to be a Member of the COTIF if the parties agree upon (art. 1 § 2 CIM)

Transfrontier carriage by rail + carriage by road or inland waterway in internal traffic of a Member State of COTIF

- Mandatory application (art. 1 § 3 CIM)

Transfrontier carriage by rail + carriage by sea or transfrontier carriage by inland waterway

- Applies if the additional carriage is performed on the services included in the CIM List of maritime and inland waterway services (art. 1 § 4 CIM)



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COTIF solution for multimodal Rail-Road traffic

- So called “**Rail + Approach**”
- Applies to multimodal transportation by rail and road

CIM Art. 1 § 3: When international carriage being the subject of a single contract includes carriage by road or inland waterway in **Internal traffic** of a Member State **as a supplement to transfrontier carriage by rail**, these Uniform Rules shall apply

- For the Application of COTIF/CIM on multimodal rail/road transportation it is decisive
 - ✓ whether the goods are unloaded from the vehicles or not (then CIM is applicable and not CMR)
 - ✓ whether road-transportation is only a supplement to transfrontier carriage by rail (then CIM is applicable and not CMR)



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Comparative matrix CMR/ CIM/ SMGS – CIT/IRU common document for multimodal Rail-Road traffic



Comparative Matrix CMR Convention, COTIF/CIM, SMGS Convention, Documents IRU, CIT and OSJD

Regime	CIM CONVENTION	DOCUMENTS IRU	COTIF/CIM	DOCUMENTS CIT	SMGS	COMMENTS
Date	19 May 1966		9 May 1980 - 3 June 1989 201000		1 July 2015	
Mode	Road	Road	Rail	Rail	Rail	
Scope of application	Art. 1.1 This Convention shall apply to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery are, as specified in the contract, situated in two different countries, of which at least one is a Contracting country, irrespective of the place of residence and the nationality of the parties. Art. 1.2 This Convention shall also apply where carriage is performed by States or by governmental institutions or organizations. Art. 1.3 This Convention shall not apply to: (a) Carriage performed under the terms of any international postal convention; (b) To funeral consignments; (c) To future removals.		Art. 1.1 These Uniform Rules shall apply to every contract of carriage of goods by rail for reward when the place of taking over of the goods and the place designated for delivery are situated in two different Member States, of which at least one is a Member State and the parties to the contract agree that the contract is subject to these Uniform Rules. Art. 1.2 These Uniform Rules shall apply to carriage performed between stations situated on the territory of neighbouring States, when the infrastructure of these		Article 1 Application of the Agreement [1] This Agreement shall constitute a common legal basis for contracts for the carriage of goods by rail in international through railway traffic and in international through railway ferry traffic. [2] The carriage of goods by railway shall take place between stations that are open for freight traffic and in accordance with the national law of the Parties and in connection through railway ferry traffic. [3] The Parties shall take place between stations that are open for freight traffic and in connection through railway ferry traffic. [4] If the Parties are at the same time parties to other international agreements of goods by rail, traffic between stations of the railway of these Parties may be performed under the terms of those agreements.	Comments CMR is a single international Convention applying to every contract of carriage of goods by road. [1] This Agreement shall constitute a common legal basis for contracts for the carriage of goods by rail in international through railway traffic and in international through railway ferry traffic. [2] The carriage of goods by railway shall take place between stations that are open for freight traffic and in accordance with the national law of the Parties and in connection through railway ferry traffic. [3] The Parties shall take place between stations that are open for freight traffic and in connection through railway ferry traffic. [4] If the Parties are at the same time parties to other international agreements of goods by rail, traffic between stations of the railway of these Parties may be performed under the terms of those agreements.



Regime	CIM CONVENTION	DOCUMENTS IRU	COTIF/CIM	DOCUMENTS CIT	SMGS	COMMENTS
	Art. 1.1 and indicate if necessary, particulars to be taken, if this information has not been entered in the consignment note, the carrier shall be liable for the loss of the goods. [1] Goods of a dangerous nature which, in the circumstances referred to in paragraph 1 of this article, the carrier did not know were dangerous, may, at any time or place, be unloaded, destroyed or rendered harmless by the carrier without compensation. Further, the carrier shall be liable for all expenses, loss or damage arising out of their handling under the carriage or at their disposal.		Art. 1.1 and indicate if necessary, particulars to be taken, if this information has not been entered in the consignment note, the carrier shall be liable for the loss of the goods. [1] Goods of a dangerous nature which, in the circumstances referred to in paragraph 1 of this article, the carrier did not know were dangerous, may, at any time or place, be unloaded, destroyed or rendered harmless by the carrier without compensation. Further, the carrier shall be liable for all expenses, loss or damage arising out of their handling under the carriage or at their disposal.		Article 1 The transport of dangerous goods (See Annex 2 to this Agreement). The relevant provisions of this Agreement shall apply to the transport of dangerous goods in international through railway traffic and in international through railway ferry traffic. [1] The carriage of dangerous goods in international through railway ferry traffic shall be governed by the terms of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR).	Comments Hamburg Rules, this article provides the consequences in transport law if the consignor has notified the carrier of the dangerous nature of the goods by rail or road.

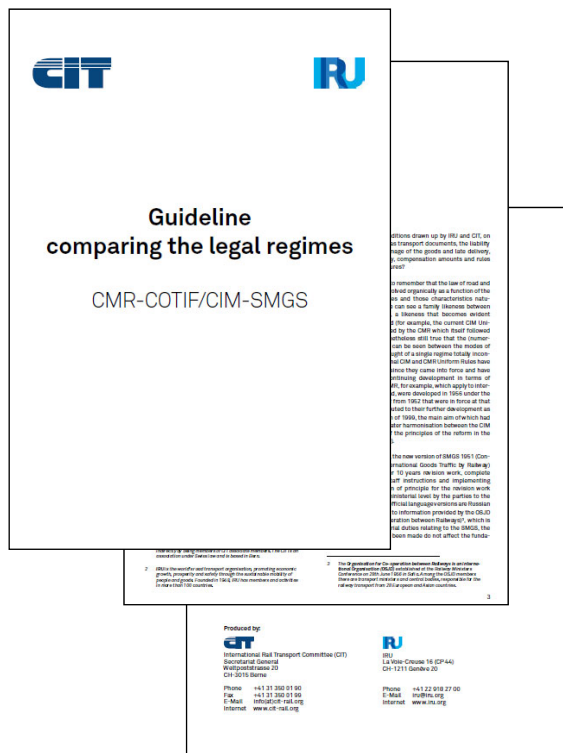


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Main points

- **Comparison** between the international carriage of freight by rail (COTIF/CIM) and road (CMR)
- **Basis** for further work of harmonising road law and rail law
- **Synthesis of the key findings** (liability, the parties' responsibility, necessary documents such as the consignment note etc.)

CIT/IRU Guideline comparing the legal regimes CMR - COTIF/CIM - SMGS



Content:

- An introduction
- A synthesis of the key principles
- A map with the scope of application of all three Conventions
- A matrix in which the most important topics are examined in detail

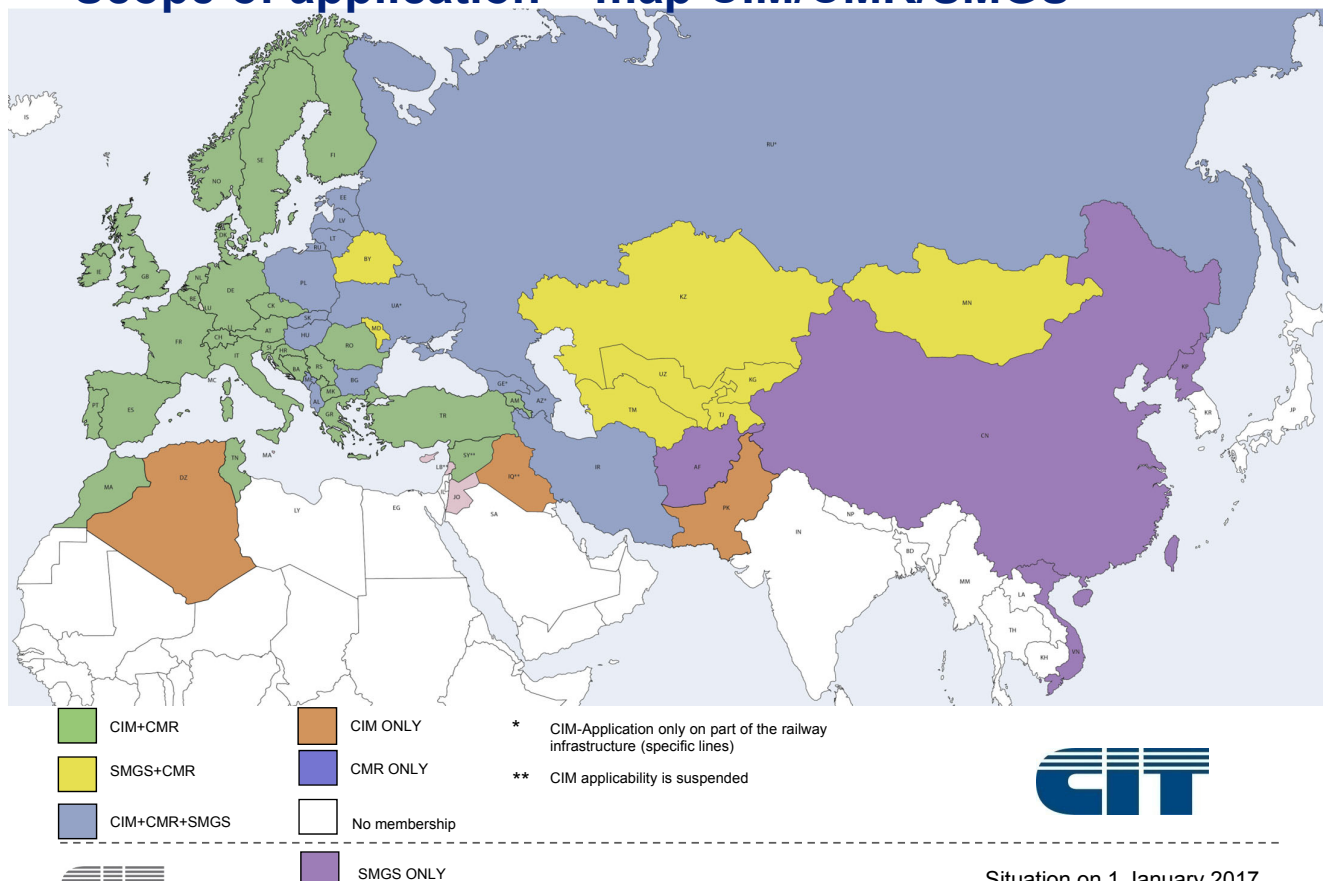
→ Published in a brochure in 2017

→ Published together with IRU (International Road Union)



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Scope of application – map CIM/CMR/SMGS



Note: No state where only CIM and SMGS together are applicable

Next steps for Rail – Road traffic

Drafting a Checklist for a rail-road framework contract

- Develop a Checklist for road-rail combined traffic based on practical case examples from CIT and IRU members.
- Main components in the form of model clauses:
 - a) Standard provisions for truck to rail transshipment operations
 - b) Standard provisions for loading transport units onto a rolling road
 - c) Glossary including Definitions and Explanations
 - d) Practical cases?
- The provisions will be examined in depth by the CIT members and discussed with the IRU – Workshop Bettembourg/Luxembourg 2019

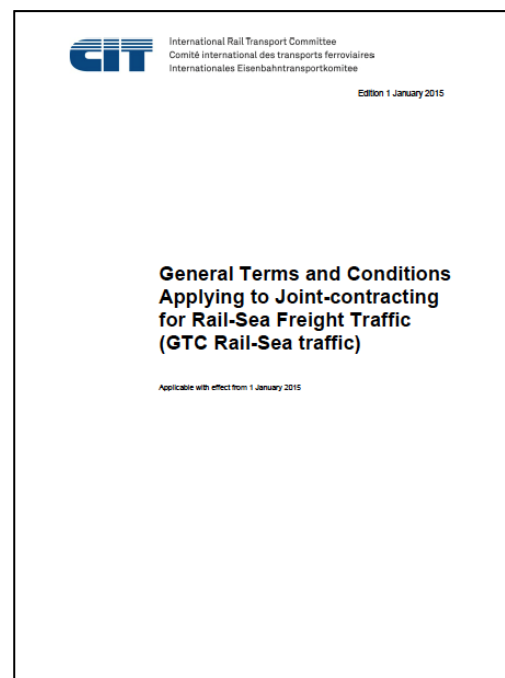


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CIT GTC Rail-Sea traffic

- **Validity:** introduced on 1 January 2015 (*opting-in*)
- **Model** of successive carriers: maritime carriers can appear as successive carriers within multimodal carriage
- **Application** of the CIM consignment note for multimodal carriage
- **Structure:**
 - I. General conditions of carriage for multimodal rail-sea traffic
 - II. Appendix 1: CIM list of maritime and inland waterway services
 - III. Appendix 2: Provisions for carriage of dangerous goods

Cooperation between various types of transport carriers is indispensable for common success



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GTC Rail – Sea Traffic Content

- A General provisions
 - B Performance of the contract
 - C Payment and charges
 - D Liability – Loss and damage – Allocation of compensation - Non performance or delayed performance
 - E Duration of the contract
 - F Miscellaneous
- Appendices
- 1 List of CIM maritime and inland waterway services
 - 2 Carriage of dangerous goods



International Rail Transport Committee
Comité international des transports ferroviaires
Internationales Eisenbahntarifkomitee

Edition 1 January 2015

General Terms and Conditions Applying to Joint-contracting for Rail-Sea Freight Traffic (GTC Rail-Sea traffic)

Applicable with effect from 1 January 2015



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CIT Boilerplate contract for Rail-Sea traffic

- **Validity:** introduced on 1 July 2016
(*opting-in*)
- **Model** of successive carriers: maritime carriers can appear as successive carriers
- **Structure:**
 - Objective of the contract
 - Obligations
 - Procedures related to carriage
 - Compensation
 - Applicable law, jurisdiction, other general provisions

Appendix 1: Description and planning

Appendix 2: GTC Rail-Sea Traffic

Appendix 3: Payment

Appendix 4: Compensation



Boilerplate Contract for the Carriage of International Freight Traffic by Rail and Sea (Boilerplate Rail-Sea Traffic Contract)¹

Between:
... (name and address), contractual carrier, represented by ...
and
... (name and address), shipping undertaking (successive carrier), represented by ...
the following has been agreed

Definitions:

CIM: Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM – Appendix B to COTIF)

GTC Rail-Sea traffic: General Terms and Conditions Applying to Joint-contracting for Rail-Sea Freight Traffic

1 Objective of the contract

Each carrier is to perform the tasks entrusted to him in accordance with the details shown on the consignment note which is handed over. These tasks are described in Appendix 1. The carrier may also be a shipping undertaking operating a service listed in the CIM list of maritime and inland waterway services specified in Article 24 COTIF.

This contract is subject to the CIM Uniform Rules to the extent that no mandatory national law overrides them (for example, customs law, law protecting the health of animals). The CIT General Terms and Conditions applying to the Contract of International Carriage of Goods by Rail and Sea (GTC Rail-Sea Traffic) form an integral part of this contract (Appendix 2).

This contract satisfies the conditions of point 3 of the GTC Rail-Sea Traffic. In the event of a conflict between a provision of the GTC Rail-Sea Traffic and a particular contractual provision, the latter is to prevail.

2 Obligations of carriers of rail-sea traffic

a) The contractual carrier's obligations

The contractual carrier is to hand over the goods to be carried and, if appropriate, the wagon on which the goods are loaded, to the successive carrier at a defined handover point in accordance with the arrangements agreed.

b) Successive carriers' obligations

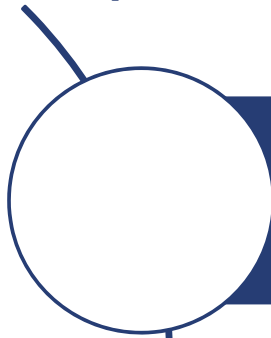
Successive carriers undertake to carry out services in accordance with this contract for the consignments defined in Appendix 1. Shipping undertakings are to be responsible for complying with provisions in the technical and operational rules which are specific to carriage by sea (stowage plan and loading regulations in particular).

¹ In accordance with point 2.5 a) of the CIT Statutes, this document is a recommendation and only binds members to the extent that members adopt it (opting-in principle).
Appendix 1.2.1 to the GTC Rail-Sea Traffic Contract, 2015



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Multimodality Rail-Road traffic– Perspectives



Stop opposing one transport mode against others –
Think together about how to work in harmony and in
wholesome competition



Statutory solutions can be envisaged only as long term
solutions – Inside the CIT, follow determinedly the path
of contractual solutions and build bridges between the
rules drawn up by the professional organisations



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Dr. Erik Evtimov

Deputy Secretary General

Phone : +41 31 350 01 97

erik.evtimov@cit-rail.org

www.cit-rail.org



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