

International
Rail Transport Committee

Editorial

Good legislation is a prerequisite for competition!



The “Berner Tage 2012” conference that was held in Bern on 8/9 March 2012 was a great success. Some 150 rail transport specialists from all over Europe spent two extremely busy days dealing with regulatory developments and the challenges of applying law on the carriage of goods and passengers. This issue of CIT Info reports in detail on the results. In the various work modules, one particular observation was consistently and repeatedly emphasised: the legal framework of transport law is increasingly open to interpretation and there is an absence of cohesion between the various regulatory levels.

The reasons for this are manifold:

- The quality of the standards emerging from the political legislative process frequently leaves a lot to be desired. Formal shortcomings (e.g. contradictions, loopholes, ambiguities) are unfortunately the order of the day. The normative content of the legislation is supplemented with political declarations of intent and political compromises are achieved by watering down the normative clarity – to pick out just two of the observations of the last few years.
- However, the numerous “legislation levels“ have also contributed to the complexity of the legal framework in the rail sector. A railway undertaking operating on an international scale today, in addition to the respective national law, EU law, COTIF law, must also comply with the SMGS and SMPS conventions in Eastern Europe and Asia. The lack of legal coherence, quite apart from the lack of technical interoperability and the administrative obstacles, is also one of the key reasons for rail’s competitive disadvantage with respect to other modes of transport.
- In addition, a tendency has been observed indicating that authorities are attempting to correct undesirable trends they have identified on the market by coming up with increasingly more operational regulatory requirements that have a profound effect on business processes, instead of concentrating on the establishment of a regulatory framework that will support the aims more effectively. The access rules that go beyond the “Essential Facilities Doctrine“ in the recast of the First Railway Package and the provisions of the TAP-TSI, which have a strong impact on operational business processes, are good examples of this.

The trends described above are inconsistent with the aim of achieving effective and customer-friendly rail passenger and freight transport services in a liberalised environment. The better solution would be a clear, fair and coherent legal framework that provides companies with the incentive and the freedom they need for successful entrepreneurial action.

With best wishes from Bern
Cesare Brand
Secretary General of CIT

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Workshop on Rail Passengers’ Rights
An exchange of views between railway undertakings and national enforcement bodies
Brussels, 10 May 2012

Further information is available on page 14 and:
http://www.cit-rail.org/media/files/public/Publications/Flyer_Workshop_on_Rail_Passengers_Rights_2012-05-10.pdf



Use of the Infrastructure

“Berner Tage” – In general



Jean-Luc Dufournaud
CIT Chairman

The “Berner Tage” organised by the CIT and held on 8 & 9 March are a “must attend” event for legal professionals involved with the international law for carriage by rail. This year’s event was a great success with more than 150 participants and 25 speakers. They came from the European Commission, governmental bodies, professional organisations, universities, railway operators and infrastructure managers.

In the course of these sixth “Berner Tage”, participants:

- took stock of recent changes in the international law of carriage by rail,
- reached a common understanding of the current situation, its strengths and weaknesses, and
- debated the prospects for the future of the rail mode. That included considering the mode’s advantages but also its handicaps together with considering the challenges which the future will bring to the international law of carriage by rail, challenges which the various players working to develop that body of law will have to surmount.

The 2012 “Berner Tage” were also influenced by the legacy of the “Berner Tage” of 4 & 5 February 2010 which were concluded by the “Appeal from Bern”.

That “Appeal from Bern” was based on the undisputed conclusion of the participants in the February 2010 event that the rail mode could only develop as it should and hence could only compete effectively with other modes (road, sea, air) in an international context. That in turn implied that rail traffic had to be fluid and run through without disruption at frontiers.

However, although satisfying such a requirement needs adequately financed infrastructure and rolling stock and technical and institutional interoperability, it also requires the adoption of a body of international railway law which is as uniform and as integrated as is possible.

Under the auspices of the CIT therefore, railway operators launched the “Appeal from Bern” to the legislators in question (European Union, Intergovernmental Organisation for International Carriage by Rail (OTIF), United Nations Economic Commission for Europe (UNECE), Organisation for Co-operation between Railways (OSJD)) in order to invite them to coordinate and harmonise their legislative work in order to create:

- a single body of rail transport law,
- coordinated legal regimes, simple and comprehensive legal standards, which are easy to apply and remain stable.

Where are we two years later?

Has this appeal actually been heard? Have the issues developed?

If yes, in what way? What have been the consequences? Such are the questions to which the presenters and participants at the event on 8 & 9 March 2012 have tried to reply

At the end of the presentations, insights and deliberation, I expressed my own views using a picture of a jigsaw puzzle which had the pieces in the right places relative to each other but with large spaces between them and even large empty spaces. In the same way we have a jigsaw which is largely incomplete before us. As a consequence, this requires all the stakeholders in the railway industry to work together with determination and perseverance to complete the puzzle and get the final picture.

Notwithstanding this mental image of a puzzle, what summary can we give at the end of these “Berner Tage”?

The “Berner Tage” have highlighted several factors:

- **In the forefront:** ambitious prospects for the future:
 - those set down by the European Commission’s white paper – Road Map to a Single European Transport area – which describes the situation of the rail mode in 2050 including for passengers, a tripling of the length of the high-speed network lines, the majority of medium distance transport going by rail, core network airports systematically connected to the rail network and for freight, doubling the market share of rail in the total market for freight, deployment of ERTMS, a connection with all core seaports, significant development of freight corridors;
 - those following from the major projects to construct rail routes between Europe and Asia, projects involving Pakistan and the Arabian Peninsula in particular. The increasing use of the CIM/SMGS consignment note gives further weight to these projects.
- **Following on:** a legal basis which is continually changing:
 - first of all within the European Union with the “Recast”. The purpose of the Recast is to consolidate and simplify the existing texts by specifying what information must be given to operators to define the conditions for access to infrastructure and what information must be exchanged between infrastructure managers and railway undertakings whilst the infrastructure is being used, and hence to prepare for the Fourth Railway Package which, inter alia, will open domestic passenger services to competition;
 - but also, in the international realm with the convergence (and perhaps in due course the unification) of the CIM and SMGS conventions for freight and the CIV and SMPS conventions for passengers, the work being done under the auspices of the United Nations Economic Commission for Europe (UNECE) to draw up a Convention on International Rail Transport in the long term.

- **in third place:** the problems arising from the legal conditions for use of infrastructure which still have not been resolved in so far as Appendix E to COTIF, the “Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic” (CUI) (noting that a new edition was published on 1 December 2010), is only applicable in some Member States of the European Union. The others, fifteen in total, (France, Italy, Spain, etc.) which had already deposited reservations against this appendix have not yet withdrawn them; the EGTC (European General Terms and Conditions of use of railway infrastructure), were adopted after long and difficult negotiations between the CIT and RNE. They are designed to apply to domestic traffic and to recognise that railway undertakings have a right of recourse against infrastructure managers, nevertheless they are only contractual and therefore can only come into effect if they are agreed by this or that national infrastructure manager.

The legal conditions for use of infrastructure and the liability of infrastructure managers and railway undertakings to each other are therefore far from being covered by a clear and standard regime across the European Union.

- **lastly:** the multiple legal problems that arise:
 - (i) multimodal projects: the topics considered were particularly interesting bearing in mind the work of the new Multimodality Group of Experts which the CIT has set up. The Rotterdam Rules, differing from previous conventions, cover door to door movements and thus are fundamentally multimodal. In principle, the Rotterdam Rules should not change the legal position of carriers by rail; the COTIF/CIM provisions remain fully applicable on those parts of the transit made by rail in accordance with Articles 26 and 82 Rotterdam Rules.
 - (ii) relationships: when the contractual carrier, successive carriers, substitute carriers and auxiliaries (traction providers) work together, the relationships are already complex in themselves but they make the



Plenary session during the “Berner Tage”

watch-dog role of competition law (concerted practices, abuse of dominant position) even more complicated.

- (iii) strengthening the rights of passengers: a delicate linkage between Regulation (EC) No 1371/2007 on rail passengers’ rights and obligations and the CIV Uniform Rules, the increasing and uncontrolled interference by national enforcement bodies and widely varying provisions for settling disputes as a function of states and railway undertakings.

Readers will see from the summary above, a summary which does not do full justice to the number and richness of the debates which took place during these two “Berner Tage”, that there are many things to get on with; they are varied and will be demanding.

There is no doubt that the two years which separate us from the next “Berner Tage” (6 & 7 March 2014) will provide more pieces to be added to the jigsaw.

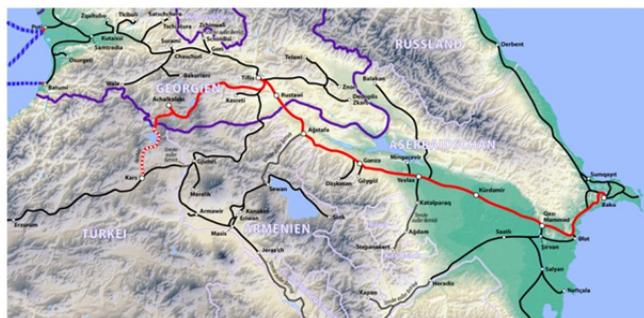
We must therefore remain determined as we move forward so that the rail mode in Europe and in the rest of the world is able to increase its market share and to compete effectively over the long term with other modes of transport – in the interests of rail operators naturally but in the interests of their customers and sustainable development as well.

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Georgia to become 48th member state of OTIF

As announced in CIT Info 6/2011, Georgia is to become the 48th member state of OTIF with effect from 1 May. On this day, COTIF and Appendices A (CIV), B (CIM) and C (RID) will come into force for Georgia.

The Georgian rail network has a total length of some 1,600 km and is completely electrified. Around 250 km of the network will be subject to the CIV and CIM Uniform Rules.



Specifically, this will include the sections between the ports and freight terminals in Poti and Batumi, in addition to the important section from Gardabani to Kartsakhi on the Kars-Tbilisi corridor, which links up the Azerbaijani port of Baku on the Caspian Sea with Turkey and Europe.

When these sections become subject to CIV and CIM, a major step will have been taken towards legal unity and legal certainty in the Caucasus. This will eventually result in an estimated annual freight volume of 30 million tonnes.

Georgia’s accession is also important for the development of rail freight transport in Eurasia. China and Kazakhstan have an economic interest in handling their freight flows to Europe via the Baku-Tbilisi-Kars line. When it finally goes into service, the Marmaray Tunnel, which is regarded as the key element along this route, will open up completely new prospects.

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IRU Symposium of Lawyers: Cohabitation or confrontation of the various legal systems?

This was the main issue dealt with at the 9th IRU Symposium of Lawyers at the end of February 2012 in Geneva by more than 40 legal professionals and transport experts specialising in road transport law. During the symposium, the participants identified increasing regulatory activity by the European Union (EU) in the international transport of passengers and goods by road. Unlike Art. 38 of COTIF, the corresponding conventions for the international carriage of goods by road (CMR) and passengers (CVR) provide no possibility of the European Union's accession or that of its Member States. The adoption of parallel secondary EU legislation is a result of this, with far-reaching, questionable effects on legal certainty as a whole, as the subsequent discussions revealed.

International vs. regional regulatory possibilities

An appropriate adjustment of the two international conventions of CMR and CVR was subsequently discussed in depth with the participation of Prof. Loïc Grard, Prof. Isabelle Bon-Garcin and Prof. Cécile Legros. Particular emphasis was placed on cohabitation of the two legal systems – at regional level on the basis of the EU and at international level on the basis of CMR and CVR – as a possibility, since CMR in particular has been in place for many years in the CMR member states (Including the USA, Canada and the UNESCAP region). Furthermore, the IRU Commission on Legal Affairs revised its General Conditions for the Carriage of Goods last year, taking into account in particular the increasing use of electronics systems for transport documents after the eCMR protocol covering the electronic consignment note had entered into force. In addition, at CIT's Freight Claims Departments' Conference to be held on 24 May 2012, arrangements have been made for an IRU representative to present the work that has just been completed in detail (see additional information in this issue of CIT Info).

The relevant ECJ case law

The EU is taking another approach with respect to the Chicago Convention on International Civil Aviation following the ECJ ruling in Case C-366/2010, *Air Transport Association of America*. Since the competences of the EU Member States, based on secondary EU law, have not been transferred to the EU and could thus be substituted by the EU at international level, the ECJ, based on the opinion of the Advocate General Kokott, ruled that no independent participation of the EU in the Chicago Convention was necessary (so-called functional succession of the Member States to the Chicago Convention).¹

In the view held by all those involved, the two legal avenues available for EU involvement in the international carriage conventions and corresponding international transport organisations – formal accession (COTIF and OTIF) or incorporation of international transport law into the EU legal system (Montreal Convention and COTIF/CIV – the latter via Regulation 1371/2007) – require an in-depth review of the legal aspects. In this context, it was also pointed out that the established case law of the ECJ since the ECJ ruling in Case 51-54/1971, *International Fruit Company*, on the international law character of the incorporated international transport law remains completely valid. The EU now tends to be prepared to consider formal accession to international organisations in those cases where a predominant number of its Member States can actually be included and where it can subsequently exert a major influence on the decisions taken by these organisations.

Legal coherence and legal certainty in demand

These and other legal issues will certainly be on the agenda for the 10th IRU Symposium of Lawyers on 21 February 2014. In line with the Appeal from Bern in 2010, the CIT is also pursuing the interaction of the various legal systems at this year's "Bernier Tage" and is calling for more "legal coherence and legal certainty" for the benefit of legal practitioners (see the Editorial and the articles relating to the "Bernier Tage" 2012 in this issue of CIT Info).

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CIT at the 9th IRU Law Symposium

¹ Marginal ref. 63: "Indeed, in order for the European Union to be capable of being bound, it must have assumed, and thus had transferred to it, all the powers previously exercised by the Member States that fall within the convention in question (...)."

Passenger Traffic

“Berne Tage” – Passengers



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The section of the “Berne Tage” given over to passenger traffic provided the opportunity to discuss the most recent developments in the international and European law of carriage of passengers by rail and the difficulties of implementing that legislation. Carriers’ contractual liability is becoming more and more onerous and frequently leads to significant additional costs. The obligations imposed on carriers by *Regulation (EC) No 1371/2007 on rail passengers’ rights and obligations* (PRR) are far from being imposed in a uniform way by all the Member States because of the exemptions they have granted to domestic services. In addition, during this transitional period, the interpretation of the legal texts frequently diverges between the national enforcement bodies and the carriers.

Example of the implementation of the PRR

Isabelle Saintilan (SNCF) presented the implications of the choices which every railway undertaking makes when implementing the PRR. The ÖBB case draws attention to the fact that carriers and national enforcement bodies have different interpretations of the PRR clauses on delays. These issues need to be handled very carefully given that the European Court of Justice’s judgments then become binding precedents. The ÖBB case is therefore important for all carriers particularly because the issue of force majeure is specifically provided for in the *CIV Uniform Rules* and thus in Annex I to *Regulation (EC) No 1371/2007*.

Betina Johansen, from the Danish national enforcement body (NEB), presented the organisation of her NEB and the method of resolving complaints in Denmark. The structure and the procedure for handling complaints are very flexible and allow for conciliation between the carrier and the customer to avoid the need to take legal action.

Another example of the application of the PRR, but rather more unfortunate, was presented by Pascale Houssa (SNCB). It concerned the collision between two local trains at Buizingen in Belgium. That was an example of the application of the mandatory provisions of the PRR since, in the case of death or injury, states are not permitted to derogate from the PRR (Article 11 PRR). In this context, it would seem essential for an organisation to have insurance against civil liability.

Rights for passengers as consumers

Jens Karsten (bxl-law) underlined the importance which the EU has given during the last twenty years to consumers’ rights including those of passengers – “consumers of transport services”. Recently, the European Commission produced a *Communication on Passenger Rights in all transport modes* as part of its *European vision for Passengers*. This document identifies a common set of ten passenger rights guaranteed by law for the four transport modes. It

should be noted that the European Commission itself recognises that there are problems of legal interpretation which lead to difficulties in implementation and different approaches in the various Member States.

Rights that are easier to assert

On the one hand, the national enforcement bodies can have a major role in providing a standardised interpretation of the legislation on passengers’ rights. In that area, the European Commission considers that it is necessary for the national bodies to work together more closely. On the other hand, the European Union intends to facilitate passengers’ access to justice by providing a simplified procedure for small claims and the option for collective redress. Gilles Mugnier (SNCF) presented a better alternative to resolve disputes with customers more rapidly and certainly more effectively from the financial point of view: mediation. He provided a brief summary of some of the systems of mediation used in Europe and gave more details of the one used in France.

Evolution towards e-ticketing

Michael Stevens (UIC) outlined the effects of making contracts of carriage intangible and described the *e-ticketing* projects being developed in UIC groups as part of the process of extending information technology in the transport industry. The development of *e-tickets* to cover cross-frontier sections and the services provided by several successive carriers represents a challenge for all railway undertakings. In addition, *e-ticketing* is being developed within a demanding legal framework set by the technical specifications for interoperability (TAP TSI) where distribution and information to passengers need to be taken into account.

The new *Directive 2011/83/EU on consumer rights*, published on 22 November 2011, also affects the railway industry but only in so far as the sale of tickets on-line is concerned. Its objective is essentially to ensure that passengers are provided with clear and comprehensible information before they are bound by the contract. The directive must be transposed into national law before 13 June 2014.

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From left to right: Michael Stevens, UIC; Jens Karsten, bxl-law; Gilles Mugnier, SNCF; Carmen Filipescu, Chair of the CIV Committee; Isabelle Oberson, CIT.

CIV/SMPS legal interoperability: where are we going?

What has been done to date?

Since mid-2011, after the GS CIT had launched the “CIV/SMPS Legal Interoperability” project for international rail passenger transport at the end of the 2010 Annual General Meeting – together with OSJD, OTIF and the support of SNCF, DB AG and RZD, the project is making great strides (see detailed report in CIT Info 3/2011, p. 4). The following CIT members are involved in the work on “CIV/SMPS Legal Interoperability” in the CIV/SMPS Experts Group that has been set up – SNCF, DB AG, RZD, PKP IC, LG and LDZ. The recently founded FPC, a subsidiary of RZD for international passenger services, also actively participates in all meetings and expressed the wish to become a CIT member at the end of the third meeting in February 2012.

In the course of 2012, the project work will initially focus on sounding out and evaluating the contractual freedom available to the railway undertakings within the legal framework of SMPS and the CIV Uniform Rules and Regulation (EC) 1371/2007. During the discussions conducted in the CIV/SMPS Experts Group to date, it has become increasingly clear that, based on the individual international train journeys, there is an additional demand for a detailed comparison of the existing legal regimes for SMPS, COTIF/CIV and PRR international passenger transport.

Particular attention is also being paid to the international rail passenger service from Moscow to Nice, and to the Moscow – Minsk – Warsaw – Berlin – Paris service that was launched in December 2011. The senior management of FPC, which is organising these services as the contractual carrier, welcome the possibility of a legal solution for CIT’s bilateral and multilateral products, with the result that

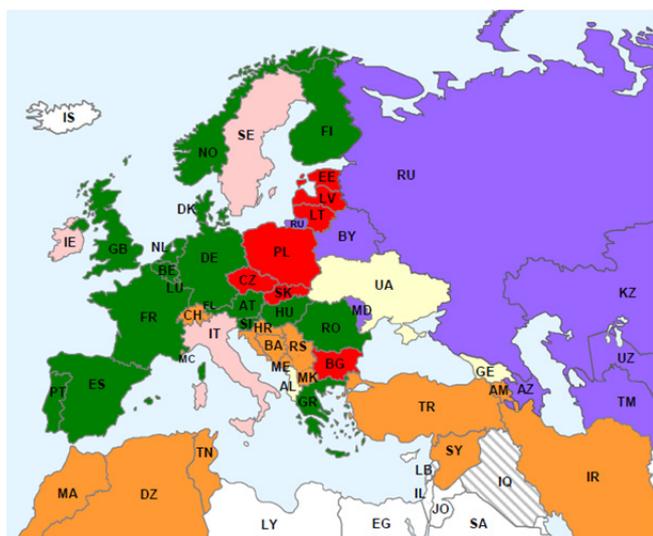
accession to CIT has become more important for the company. FPC has also announced its interest (formal application to join CIT was received on 2 April 2012) in sending specialists to GS CIT in Bern for training and to acquire experience in handling CIT’s passenger transport products.

What comes next?

The CIV/SMPS Experts Group is to complete the following specific work, which has been planned for the further development of the joint CIT/OTIF/OSJD project:

- Preparation of a guideline in tabular form on the SMPS-COTIF/CIV-PRR liability regimes complete with relevant comments from the experts. This was followed by an initial in-depth discussion in February during the third meeting of the Experts Group. The GS CIT will prepare a revised version of the comparative table and present it to the group of experts ahead of the next meeting in mid-August in Prague.
- In addition, a list of the current roadmaps (e.g. new to Kiev – Warsaw – Berlin or Vilnius – Minsk – Moscow) will be prepared, complete with visualisation of the applicable legal regimes.
- The knowledge gained will be used in the form of syntheses for the work that will follow in a second phase in the course of next year – e.g. charter of personal rights, information leaflet for travellers using international passenger services, posters for international passenger services, etc.
- Parallel to this, an in-depth study of current bilateral specimen contracts will take place, primarily for handling FPC’s two direct rail passenger services using the current multilateral solutions based on the GTC “joint contract”, the Agreement concerning the Relationships between Transport Undertakings in respect of International Passenger Traffic by Rail (AIV) and the CIT Passenger Transport Manuals.

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Geographical scope of CIV – PRR – SMPS

- | | |
|------------------|------------------------------|
| CIV | SMPS |
| CIV + PRR + SMPS | CIV not yet ratified |
| CIV + PRR | Membership suspended of OTIF |
| CIV + SMPS | |

Report on rail passengers' rights commissioned

The European Commission is drawing up the report on the implementation of *Regulation (EC) No 1371/2007 on rail passengers' rights and obligations* (PRR) which it has to deliver to the European Parliament and the Council before 3 December 2012 (in accordance with Article 36 PRR). It has asked *Steer Davies Gleave*, consultants specialising in the transport field, to make an initial analysis of the situation in seventeen EU Member States. The states which have been chosen are: Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Lithuania, Netherlands, Poland, Portugal, Romania, Spain, Sweden and the United Kingdom.

The consultants started to distribute questionnaires at the end of January to railway undertakings, station and infrastructure managers, national bodies charged with the enforcement of the PRR, national associations representing passengers and European associations representing the various stakeholders. The questions essentially refer to the information provided to passengers, the action taken in the event of disruption, quality monitoring, the assistance offered to persons with reduced mobility and the handling of complaints. A preliminary report is due to be sent to the European Commission in June 2012.

The CIT, in common with the CER and UIC, does not think that any changes to the PRR are desirable in the short term. The PRR certainly contains several articles which are poorly

drafted or badly linked with the CIV Uniform Rules annexed to it (as Annex 1). Those gaps have already given rise to test cases in the highest European courts (see the *Westbahn* and *ÖBB* cases (C-136/11 and C-509/11) described in CIT Info 3 and 6/2011). Nevertheless, the CIT believes that a dialogue between the various stakeholders would be very much more effective than systematic recourse to the courts to resolve problems. Within that context, the CIT and CER are organising a workshop with the national enforcement bodies for the PRR. The workshop will be held on 10 May 2012 and will be open to any interested party (see below page 14).

Finally, we must emphasise that the private law applying to contracts of carriage is exceptional in legal terms because it is applied to millions of contractual relationships every day. For that purpose it must be sufficiently clear and stable. Legal certainty, essential for all the parties, must not be undermined by illogical interpretations or continual amendment. Private law should be applied in a general and abstract manner, leaving some room for flexibility to manage all those cases which can arise in practice. Over-regulation always ends up by damaging the market and thus the interests of the final consumer.

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Freight Traffic

“Berner Tage” – Freight

The section of the “Berner Tage” 2012 devoted to freight traffic provided the opportunity to brief participants on the main tasks in the freight field which the CIT has in hand and to review developments in international law as they affect the carriage of freight traffic.

A new convention for maritime transport

On 11 December 2008, the United Nations General Assembly adopted the “United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea”. This treaty was opened for signature in Rotterdam on 23 September 2009 and since then the convention has been known as the “Rotterdam Rules”. To date, the convention has been signed by twenty-four states and ratified by one state. It will enter into force one year after the deposit of the twentieth instrument of ratification.

The Rotterdam Rules take account of the technical and commercial developments which have taken place in carriage by sea, such as containerisation and the exchange of information about consignments by electronic means. However, there is one major factor which is quite new, their scope, which is not restricted to just carriage by sea but extends (as the title of the convention indicates) to international freight traffic moved wholly or partly by sea. These new rules therefore also concern railway undertakings which perform carriage before or after international carriage by sea. In this new framework, they may take the role of the

carrier (the principal) or be the auxiliary of the carrier by sea. In this latter case, their liability will remain governed by railway law.

On the obligation to carry in a liberalised market for international carriage by rail

The “Berner Tage” were an opportunity to review the various contractual models for performing international carriage by rail. These models follow from the CIM Uniform Rules and



From left to right: Henri Trolliet, CIT; Ulrich Polanetzki, Rechtsanwälte Polanetzki & Bill; Christian Heidersdorf, Chairman of the CIM Committee; Erik Evtimov, CIT; Gertjan van der Ziel, Erasmus University Rotterdam; Jacques Dirand, CER; Gustav Kafka, OTIF.

include such variants as the single carrier, successive carriers, substitute carriers and recourse to sub-contractors. Also reviewed were the various general terms and conditions for cooperation developed by the CIT (such as joint contracting, sub-contracting, traction, hire and provision of services).

The classic models for working together, based on the CIT general terms and conditions for cooperation, are now well understood and skilfully used. New requirements are now emerging; they involve new stakeholders and will lead to new economic models. These new models have the advantage that they offer a wider choice of partners and solutions for the customer and transport and logistics professionals. Whilst these new requirements may not necessarily lead to new contractual models, it seems nevertheless that they will force us to make a few amendments to the CIT general terms and conditions for working together.

New provisions for electronic consignment notes in the CIM Uniform Rules?

The CIM Uniform Rules were the first international transport convention to contain a legal basis which provided for transport documents to be prepared by electronic means. The 1980 CIM Uniform Rules allowed for derogations for the use of electronic documents to be made by means of specific agreements, additional provisions or provisions in tariffs. The 1999 CIM Uniform Rules provide that the procedure used for the registration and treatment of data must be equivalent from a functional point of view. Railway undertakings have made use of these statutory bases to create the first systems to exchange consignment note data electronically; the most recent of these within the framework of the e-RailFreight project.

It has become apparent, however, that transposition of the principle of functional equivalence between the electronic and paper consignment notes is complex and onerous. It is appropriate therefore, to wonder if that principle would not be sensibly replaced by specific provisions for electronic consignment notes in the CIM Uniform Rules. The first steps in this process have already been started in close cooperation with OTIF. The intention is to regard electronic consignment notes and accompanying documents as the norm and relegate paper documents to be the exception.

From the dream to reality

What was only a dream at the beginning has become a reality. More than half the CIM/SMGS traffic is now covered by the common CIM/SMGS consignment note introduced in 2006. This document allows transit times to be reduced and costs to be saved whilst increasing legal certainty for the parties to the contract of carriage.

The joint CIT/OSJD project to make the CIM and SMGS legally interoperable crossed another hurdle when the Special Conditions of CIM/SMGS Liability (SC CIM/SMGS) were



drawn up. They were recently approved on behalf of the CIT. Once they have been approved on behalf of the OSJD, they will be introduced as the new Appendix 10 to the CIM/SMGS Consignment Note Manual. It will then be possible to apply them on a voluntary basis and customers will be able to benefit from standardised conditions for liability in the event of the loss of or damage to their goods.

Even so, CIM/SMGS traffic will continue to be subject to two distinct contracts of carriage. For that reason the CIT and OSJD will do all they can to use every opportunity to simplify these movements by contractual means. They envisage working together to draw up new terms and conditions of carriage (the GTC EurAsia) which will allow these movements to be made using just one contract of carriage.

Yet more?

The complexity of the triangular relationship between railway undertakings, infrastructure managers and wagon keepers was demonstrated with the help of examples of how international law and the associated national law is being applied (parties involved, law applicable, differences between the various provisions, etc.). Although the boilerplate contracts drawn up by the industry (the European General Terms and Conditions of use of railway infrastructure (EGTC) and the General Contract of Use for Wagons (GCU) for example) allow some of the difficulties to be overcome, there may be a need to re-examine certain points in the various appendices of COTIF.

Finally, the consequences of Regulation (EU) No 913/2010 concerning a European rail network for competitive freight from the political and economic viewpoint were presented. Participants were also briefed on the action being taken in anticipation of the regulation being implemented.

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15th meeting of the CIM Committee of CIT: projects and approved amendments

The CIM Committee of CIT met on 27 March 2012 in Bern at CIT's head offices for the last time under the chairmanship of Dr. Christian Heidersdorf (DB AG/DVA). The most important decision-making body in CIT's freight division consists of 26 CIT member railway undertakings; recently, GYSEV Cargo also applied to become a permanent member of the CIM Committee.

A further seven organisations are also members of the CIM Committee – OTIF, OSJD, CER, UIC, VDV, IVT and most recently CCTT (Coordinating Council on Transsiberian Transportation, which is based in St. Gallen).

The CIM Committee passed the following key resolutions in its 15th meeting:

- CIM electronic consignment note for converting transport documents into electronic form – the purpose of this work is to replace the principle of functional equivalence contained in the CIM Uniform Rules with specific material provisions relating to the CIM electronic consignment note and, if possible, to the electronic accompanying documents. (Article 7a **new** CIM). The implementation of the material CIM provisions is to take place in CIT products designed for freight transport. Priority is to be given to the products destined for relations to external customers (in particular GLV-CIM).
- CIM/SMGS legal interoperability, primarily for implementing special conditions of liability (SC-CIM/SMGS) – the members of the committee unanimously approved the new Appendix 10 of the CIM/SMGS Consignment Note Manual (GLV-CIM/SMGS) and the other amendments to the manual relating to this new Appendix. The General Secretariat of CIT was authorised, in close collaboration with the OSJD Committee, to do everything in its power to ensure that these conditions, which are extremely important for the railway undertakings and their customers, can come into force in the course of 2013.
- Multimodality (primarily the establishment of the GCC "Rail-Sea Transport") – the General Secretariat of CIT, based on the GTC "joint contract", will prepare a draft of the new GCC "Rail-Sea Transport" in the "Multimodality" Working Group, taking into account the opinion of the CIM Working Group. When preparing the new GCC "Rail-Sea Transport", customs aspects are also to be taken into consideration.



From left to right: Jean-Marie Sié, Deputises for the Chairman; Cesare Brand, CIT Secretary General; Christian Heidersdorf, Chairman; Erik Evtimov, CIT Deputy Secretary General; Michel Libis and Nathalie Greinus, Freight specialists CIT.

- CIT's "claims handling agreement" checklist – as a general rule, the processing of the consignment note when loads are transferred as a result of an irregularity relating to the wagon or the load is covered in the GTM-CIT and in the case of a gauge change at the CIM/SMGS interface in the GLV-CIM/SMGS and in the GR CIM/SMGS. At the meeting of the CIM Committee, a decision was taken to add a supplement to CIT products for the transfer of loads in the event of a gauge change at the FR / ES or FI / SE borders and at the interfaces between standard and broad gauge. Cases involving the transfer of loads when switching to another mode of transport will continue to be examined by the "Multimodality" Experts Group. Examination of whether it is possible to extend the validity of the "claims handling agreement" checklist to include other parties as carriers for their customers, such as the infrastructure managers or wagon keepers, will also continue.
- New specimen CIM Consignment Note for Combined Transport / CUV Wagon Note for Combined Transport – according to feedback from members of the CIM Working Group, the UIC Combined Transport Group and UIRR to the General Secretariat of CIT, the Consignment Note for Combined Transport is to be retained; certain fields and additional sheets, however, can be eliminated. The CIM Committee has accordingly approved the CIM Working Group's proposal to include the draft version of the CIM Consignment Note for Combined Transport in the CIM Consignment Note Manual (GLV-CIM) as an appendix and to dispense with the CIM Consignment Note Manual for Combined Transport (GLV-TC). The proposals have also been approved by the UIC Combined Transport Group and the UIC Wagon Users Study Group, Interunit, UIRR and the DG TAXUD of the European Commission.

The CIM Committee has also been notified of the additional work planned for the current year.

The following work has been placed on the agenda of the coming meetings of the CIM Working Group on 13/14 June and 17/18 October 2012 in Bern:

Legal issues:

- GTC collaboration and agreement on collaboration between RUs;
- Models for performing transport operations;
- Specimen contract for sub-contracting the carriage of freight;
- Revision of COTIF/CIM;
- Prevention of corruption by means of a compliance clause.

Operational issues:

- Clarification of specific customs terms in CIT's freight products;
- Storing information on the carriage of dangerous goods;
- GLW-CUV – prerequisites for the carriage of empty wagons using a CUV wagon note.

Finally, the CIM Committee was informed of the EU Commission's freight transport agenda

In the second part of the meeting, Frank Jost (DG MOVE) presented his keynote speech on the "Development of European Transport Law", which included information on the

Commission's core tasks in the field of international freight transport, in particular in terms of the recast, the fourth railway package and the rail freight corridors.

During the discussion that followed, it became clear that the European Commission was still intent on not introducing regulations on the contract for the carriage of goods. The Commission will concentrate primarily on the measures being planned to simplify cross-border shipments of goods by rail in Europe and beyond to include the COTIF Member

States and at OTIF level. This is in the interests of the legal unity and coherence of the law of the carriage of goods. Legal interoperability is not to end at EU's outer borders. This approach taken by the Commission is welcomed by the industry.

The next meeting of the CIM Committee of CIT has been planned for 26 March 2013 in Bern at CIT head office.

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Original: DE

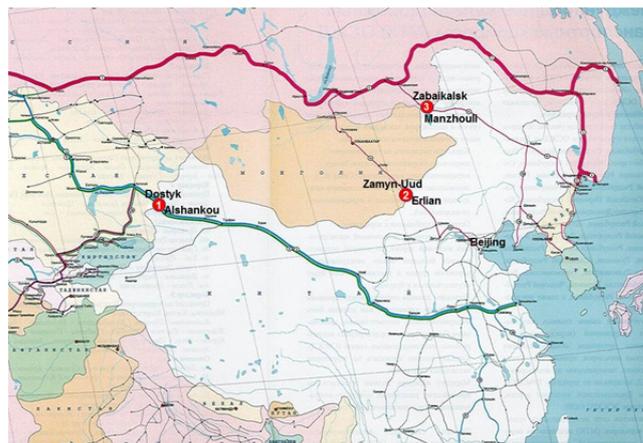
China takes the CIM/SMGS consignment note another step forward

CIT Info 5/2011 described 8 September 2011 as a date that will go down in railway history. In the thirty-ninth OSJD Conference of Ministers held on that date, the People's Republic of China announced its intention to open its rail system to the common CIM/SMGS consignment note.

Less than six months later on 21 February 2012, at the opening of a seminar in Beijing organised by the Ministry of Railways of the Peoples' Republic of China and the OSJD, Chen Juemin, Director-General of the Ministry of Railways Department for International Cooperation said that his country was ready to use the CIM/SMGS consignment note on pilot routes in 2012.

More than 120 representatives, mainly from government, railways and customers and from the majority of the OSJD Member States, took part in the seminar which was entitled "Practical Use of the Common CIM/SMGS Consignment Note in Eurasian Rail Freight Traffic". The seminar gave the numerous representatives from the Ministry of Railways of the Peoples' Republic of China and the Chinese Railways the opportunity to learn of the significant advantages provided by the CIM/SMGS consignment note, by the manual on how to use it and by the standardised arrangements for handling claims. They were able to see how these advantages arise in quantitative terms (a reduction in transit times and in costs) and in qualitative terms (greater legal certainty for customers and carriers). They intend to take advantage of these benefits because they will contribute towards developing container traffic (in particular) between China and Europe. This is especially the case for the large new economic centre built in the province of Xinjiang, close to the frontier with Kazakhstan.

Three routes will be given priority for the use of the CIM/SMGS consignment note. These are:



- 1 Alashankou-Dostyk, between the People's Republic of China and Kazakhstan;
- 2 Erlian-Zamyn Uud, between the People's Republic of China and Mongolia;
- 3 Manzhouli-Zabaikalsk, between the People's Republic of China and the Russian Federation.

In a declaration adopted at the end of the seminar, the participants underlined the need for the documents, manuals and procedures which had been developed by the project to make the CIM and SMGS legally interoperable. They expressed their willingness to use these documents and procedures and supported their continuing development. The CIT welcomes these commitments; it will continue to pursue its activities tenaciously in order to get round the obstacles inherent in the law of carriage and thus to contribute to the development of traffic between Europe and Asia.

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Original: FR

CIT visits the FIATA Secretariat at the 2012 Headquarters Session



the awareness of CIT products for handling international rail freight shipments.

As the global umbrella organisation for freight forwarders, the FIATA is particularly interested in the possibility of handling Eurasian shipments using the common CIM/SMGS

At this year's Headquarters Session of the FIATA Secretariat, CIT's Deputy Secretary General was invited as a panellist to the "Multimodal Transport Institute". The occasion was used to discuss topics of general interest, focusing particularly on increasing

consignment note and extending it for use on rail-sea shipments. To set up a long-term exchange of information – as provided for in the CIT 2012 work programme – the General Secretariat of CIT will take concrete steps to ensure that training modules can be provided as quickly as possible for relations with external rail customers, primarily using the CIM consignment note and the CIM/SMGS consignment note. The latter can be used successfully in FIATA's national and international seminars for training freight forwarders.

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Use of the Infrastructure

“Berner Tage” – Use of Infrastructure



*Lucio Lanucara
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Deputy Director EU and International Affairs
Chairman of the CUI Committee*

Discussion of the use of Infrastructure at the 2012 “Berner Tage”

Access to infrastructure was one of the more important topics discussed at the 2012 “Berner Tage”. Access to infrastructure has given rise to serious concerns in railway legal circles in the last few years. The reservations against the CUI lodged by EU Member States under pressure from the European Commission and Regulation (EC) No 1371/2007 (the PRR) entering into force have caused a great deal of uncertainty. This has been compounded by the fact that the PRR makes railway undertakings liable for delays caused by the infrastructure manager without providing them with a specific right of recourse.

Legal basis in private and public law

The infrastructure module of the “Berner Tage” began with an introduction to the statutory framework. Thomas Leimgruber (the former Secretary General to the CIT) explained how access to infrastructure has been regulated internationally, both in public and in private law. As Thomas Leimgruber noted, in public law, Directive 2001/14/EC (which is currently being revised within the “Recast” of the First Railway Package) provides the underlying legislation. In private law, the CUI Uniform Rules form the main piece of legislation. Other appendices to COTIF qualify the infrastructure manager as “persons whose services the carrier makes use of for the performance of carriage”, and thus carriers become liable for the infrastructure manager’s faults. The CUI Uniform Rules were revised in 2010 to respond to the European Commission’s concern that they were not compatible with EU law. Whilst the CUI Uniform Rules were being revised, the European Commission required EU Member States not to apply them and in fact to lodge reservations against them in accordance with COTIF. Those reservations are now in the process of being withdrawn.

European GTC of use of railway infrastructure

Dr Leimgruber also introduced the *European General Terms and Conditions of use of railway infrastructure* (EGTC), agreed after several years of work involving the CIT, RNE, CER, EIM and UIC under the watchful eyes of the European Commission. Adoption of the EGTC provides a fundamental tool to harmonise the treatment of those cases where the CUI Uniform Rules do not apply (because a reservation has not been lifted or COTIF 1999 has not been ratified). The

EGTC also allow commercial practices to be standardised and fill a number of gaps in the legislative framework provided by private law.

Yvonne Dessoy (DB Netz) and Lucio Lanucara (Trenitalia) went into more detail. They looked at the EGTC from the infrastructure managers’ and railway undertakings’ viewpoints. Yvonne Dessoy described the negotiations in more detail and pointed out how a number of operational issues had been harmonised. She drew attention to the fact that RNE’s General Assembly had approved the document, giving it the status of a recommendation based on best practices. Lucio Lanucara focused on the provisions governing liability, showing how the parties have been able to find agreement on all outstanding matters by making compromises. Lucio Lanucara also clarified some fundamental points, such as the difference between liability for delays and performance regime penalties.



Lucio Lanucara, Chairman of the Committee CUI, explains the EGTC.

Next steps

Despite the EGTC only having the status of a recommendation, its future seems assured; several infrastructure managers are already on their way to adopting it as their document of reference. The railway trade associations are also considering when and whether to revise and improve the text; like any document drawn up collectively, it can of course be improved.

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Original: EN

Progress made in withdrawing reservations against the CUI Uniform Rules

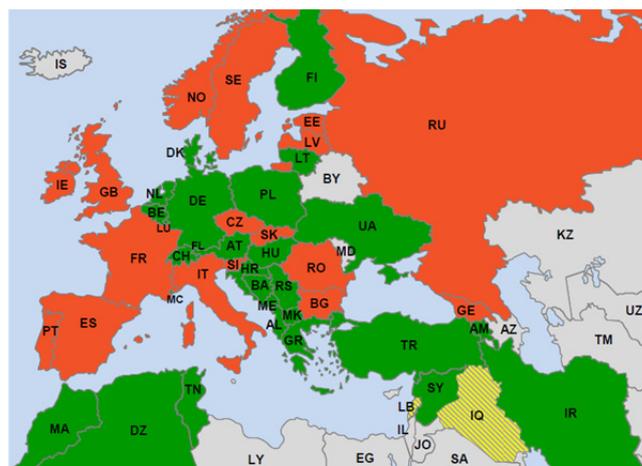
As a consequence of the European Union joining COTIF in July 2011, eleven EU Member States have withdrawn their reservations against the CUI Uniform Rules (as shown on the map opposite). The most recent are Luxembourg, Belgium and Hungary. Withdrawal of reservations takes immediate effect (unless states stipulate otherwise). The CUI Uniform Rules are therefore now applicable to all contracts of use of infrastructure in international passenger or freight traffic in each of these states.

There are still fourteen EU Member States that need convincing of the need to withdraw their reservations in the next few months. The CUI Uniform Rules are of major importance for carriers: they provide carriers with rights of recourse against infrastructure managers for losses carriers suffer from incidents which have their origin in the infrastructure and do that in a standardised and clear manner. To leave that recourse just to be governed by national law would be inappropriate in a liberalised market. In addition, the majority of states do not have any specific legislation for that type of contractual relationship and hence recourse would simply be subject to the general rules applicable to the law of contracts.

The CIT updates an overview of the scope of COTIF and its appendices regularly on its website at:

<http://www.cit-rail.org/en/rail-transport-law/cotif/>.

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Current scope of application of CUI

- Scope of application of CUI
- No scope of application of CUI
- Membership suspended of OTIF

Law in practice

In this section, we publish details of legal decisions concerning rail transport and related areas of law, statements from public authorities and legal advice from the CIT General Secretariat on the practical legal issues that arise in daily life.

Completion of formalities required by customs

Who is the principal for completion of formalities which customs authorities require for wagons?

The CIM Uniform Rules do not govern relationships with customs, but rather the structure of the contract of carriage – the legal relationship between the customer and carrier. The only provision relating to customs law in the CIM Uniform Rules is Article 6 § 7 CIM which refers to the consignment note. This provision is closely related to the simplified transit procedure for rail. In the view of customs authorities, the railway undertaking is the principal to the movement for this procedure.

The European Union Customs Code defines the railway undertaking as the principal for the simplified transit procedure for rail and the concept is also used in the EU-EFTA

Agreement on the Common Transit Procedure. Under this procedure, the simplified transit procedure for rail only applies to wagons if they are consigned as goods in themselves and not if they are merely used as means of transport (see Article 24 CIM).

As has been the case in the past, wagons which are subject to the General Contract of Use for Wagons (GCU) are not consigned as goods in themselves and therefore are not subject to the transit procedure. These wagons are means of transport; under particular circumstances, however, they may be subject to a temporary import procedure. The revision of the GCU which has been set in hand will clarify if the wagon keeper is the principal for the customs formalities for the wagon.

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Original: DE

CIT Itself

New members to the CIT



Regiotrans

Regiotrans is a private Romanian railway company based in Brasov. The company has specialised in providing public transport by train. It was founded by its current head, Costel Comana in 2004. Since then, numerous routes in western and central Romania have been taken over by Regiotrans trains. In 2008 the company carried 2.73 million passengers.



AB DFDS Seaways

AB DFDS Seaways is a Lithuanian ferry company with headquarters in Klaipėda. Its German subsidiary is DFDS Seaways Baltic GmbH, based in Copenhagen. The company operates three conventional passenger and vehicle (RoPax) ferries between Germany and the Baltic, two further RoPax ferries operate between Sweden and the Baltic.

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Changes in the General Secretariat

At the end of March, Nathalie Greinus left the CIT team to take on another job. The vacancy in the freight area is being covered temporarily by Henri Trolliet who will work a 50% week as a consultant/freight expert with effect from 1 May 2012. This outcome is a stroke of luck for the CIT because Henri Trolliet supported the association vigorously for many years as a freight expert and Assistant Secretary General and brings a great deal of technical expertise and experience with him. Nathalie Greinus' job will probably be refilled during the course of next year.



Myriam Enzfelder

The passenger area will be supplemented by Myriam Enzfelder (who will work a 60% week) to take account of Isabelle Oberson going on maternity leave in the short term and only returning to an 80% week when she returns on 1 January 2013 together with Thomas Gyger moving to an 80% week with effect from 1 May 2012. Ms Enzfelder is an in-house lawyer. She acquired a soundly-based knowledge of operational and strategic rail issues during the last eleven years which she

spent in various functions within SBB. In addition, thanks to her work on international freight corridors, she has a wide network of international contacts. Ms Enzfelder is a Spanish and a Swiss citizen. We warmly welcome Ms Enzfelder to the CIT General Secretariat and wish her all success and satisfaction in her new role.

On 1 September 2012, Tetyana Payosova will again join the CIT General Secretariat to work a 50% week to support the projects to make the CIM and SMGS legally interoperable and likewise for the CIV and SMPS. She will also provide Russian language support. Ms Payosova is an in-house lawyer and is a citizen of the Ukraine. Further information about Ms Payosova is given in CIT Info 6/2010.

On 1 January 2013, Michèle Kühni will reduce her working week from 80% to 50% in anticipation of her retirement in mid-2014.

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Original: DE

Workshop on Rail Passengers' Rights

An exchange of views between railway undertakings and national enforcement bodies
Brussels, 10 May 2012



On 10 May, the CIT and CER are organising a Workshop on Rail Passengers' Rights that will give representatives of railway undertakings the opportunity to exchange views and share experiences with representatives of National Enforcement Bodies ("NEB"). The Workshop will be held in Brussels and is open to all interested participants.

Further information may be obtained from the General Secretariat of the International Rail Transport Committee (CIT), Weltpoststrasse 20, CH-3015 Bern, Tel. +41 (0)31 350 01 90.

An information leaflet and a registration form may be downloaded from our website:

http://www.cit-rail.org/media/files/public/Publications/Flyer_Workshop_on_Rail_Passengers_Rights_2012-05-10.pdf

Conference of Freight After-Sales Service Departments

Bern, 24 May 2012



This conference is intended for the staff of the claims, sales and legal departments of CIT member undertakings. It will focus on current issues, such as the international movement of dangerous goods by rail, the collaboration of dangerous goods safety advisers with the claims departments and the optimisation of their work, in addition to collaboration with other modes of transport – primarily road hauliers. Participants will have the opportunity to meet in small groups, analyse topics of general interest that occur in practice and to conduct one-on-one discussions with their colleagues from other CIT member undertakings, in order to improve the working relationship between the departments or clarify specific unresolved cases.

At this year's Freight Claims Departments' Conference, the focus will be on identifying and collating our requirements for the approaching revision of COTIF.

Further information may be obtained from the General Secretariat of the International Rail Transport Committee (CIT), Weltpoststrasse 20, CH-3015 Bern, Tel. +41 (0)31 350 01 90.

An information leaflet and a registration form may be downloaded from our website:

http://www.cit-rail.org/media/files/public/Publications/Flyer_Conference-Freight-Claims-Dept_2012-05-24.pdf

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 Original: DE

Seminar “Multimodale Beförderungen und deren Bedeutung für die Eisenbahnverkehrsunternehmen”

Odessa, 1 June 2012



The increasing globalisation of transport services – for the purpose of linking up production centres with consumers in Europe and Asia – represents enormous economic potential for all the transport service providers involved. With the publication of the white paper in March 2011, the European Commission made it quite clear that the appropriate general conditions would lead to a significant easing of the transport conditions. This would ensure that cost-effective transport services would be provided in the Eurasian region for all modes of transport.

The seminar that has been arranged for 1 June 2012 in Odessa by the CIT in cooperation with the OTIF and the OSJD and with the support of the Ukrainian freight forwarding company “Plaske” is entitled “Multimodal shipments and their significance for the railway undertakings”.

The following seminar topics will be discussed with leading experts in the field:

- the significance of rail-sea transport for railway undertakings
- the impact of the Rotterdam Rules on rail carriers
- the rail-sea regulations in accordance with COTIF/CIM
- the rail-sea regulations in accordance with SMGS
- the transport of dangerous goods using rail-sea transport services
- the use of the Common CIM/SMGS Consignment Note and other CIT documents for rail-sea transport services

The CIT/OTIF/OSJD seminar will provide an excellent opportunity to be brought up to date on the work currently dealing with a multitude of questions relating to multimodality focusing on rail-sea traffic on the Black Sea. The seminar will appeal to representatives of railways, maritime carriers and customers who are interested in the development of global rail freight shipments using multimodal rail-sea transport services.

Further information may be obtained from the General Secretariat of the International Rail Transport Committee (CIT), Weltpoststrasse 20, CH-3015 Bern, Tel. +41 (0)31 350 01 90.

An information leaflet and a registration form may be downloaded from our website:

http://www.cit-rail.org/media/files/public/Publications/Flyer_Multimodale%20Befoederungen_Odessa_2012-06-01_.pdf

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Original: DE

CIT Diary of Events

Date	Event	Location
26 April	CIT/UIC Meeting	Paris
2/3 May	CIV Working Group	Bern
9 May	Group of Experts “CIM Electronic Consignment Note”	Bern
10 May	CIT/CER Workshop on Rail Passengers’ Rights	Brussels
15 May	Meeting EurAsia	Bern
15 May	GLW-CUV Group of Experts ad hoc-Meeting	Bern
24 May	Conference of Freight After-Sales Service Departments	Bern
1 June	CIT/OTIF/OSShD-Seminar „Multimodale Beförderungen und deren Bedeutung für die Eisenbahnverkehrsunternehmen“	Odessa
13/14 June	CIM Working Group	Bern
26/27 June	CIM/SMGS Group of Experts	Bern
26/27 June	4 th meeting ad hoc-group CIV Manual	Bern
28 June	CIV Committee	Bern

Events with CIT participation

Date	Event		Location	CIT contact
25 April	Commercial & Distribution Forum	UIC	Paris	Cesare Brand
3 May	General Assembly	CER	Paris	Cesare Brand
10/11 May	South East Europe Railway Cooperation in the Spirit of European Integrations	ŽRS Anniversary	Banja Luka (BA)	Erik Evtimov
16 May	EPR Legal Working Group	RNE/UIC	Brussels	Myriam Enzfelder
22 May	SIAFI International First session	UIC	Paris	Cesare Brand
29/30 May	Rail Facilitation Committee (RCF)	OTIF	Bern	Erik Evtimov
31 May	Single window and electronic transport documentation	UNECE	Odessa	Erik Evtimov
5 June	Wagon Users Study Group	UIC	Paris	Erik Evtimov
11 June	Freight Focus Group (FFG)	CER	Paris	Erik Evtimov
11 June	Freight Forum's Steering Committee	UIC	Paris	Erik Evtimov
12 June	Freight Forum	UIC	Paris	Erik Evtimov
11/12 June	Ticketing Action Group (TAG)	UIC	Paris	Thomas Gyger
12/13 June	Team Message TM	UIC	Paris	Thomas Gyger
13/14 June	TAP Maintenance and Development (TAP-MD)	UIC	Paris	Thomas Gyger
13/14 June	High-Level Passenger Meeting	CER	Helsinki	Cesare Brand
21 June	CER Assistant Meeting	CER	Budapest	Erik Evtimov
22 June	Passenger Working Group	CER	Brussels	Myriam Enzfelder
27 June	eRailFreight Project Manager Meeting	UIC	Paris	Henri Trolliet
2/3 July	EurAsia Experts Group	UNECE	Geneva	Erik Evtimov
3/4 July	East-West Tariff Steering Committee	UIC	Budapest	Myriam Enzfelder

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