

COTIF

Convention concerning International Carriage by Rail (COTIF) of 9 May 1980
in the version of the Protocol of Modification of 3 June 1999

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Titre I
General Provisions

Article 1
Intergovernmental Organisation

- § 1 The Parties to this Convention shall constitute, as Member States, the Intergovernmental Organisation for International Carriage by Rail (OTIF), hereinafter called "the Organisation".
- § 2 The headquarters of the Organisation shall be at Berne. The General Assembly may decide to locate it at another place in one of the Member States.
- § 3 The Organisation shall have legal personality. It shall in particular have the capacity to enter into contracts, to acquire and dispose of immovable and movable assets and to be a party to legal proceedings.
- § 4 The Organisation, members of its staff, experts called in by it and representatives of Member States shall enjoy such privileges and immunities as are necessary to discharge their duties, subject to the conditions laid down in the Protocol on the Privileges and Immunities of the Organisation, annexed to the Convention.
- § 5 Relations between the Organisation and the State in which it has its headquarters shall be regulated by a Headquarters Agreement.
- § 6 The working languages of the Organisation shall be English, French and German. The General Assembly may introduce other working languages.

Article 2
Aim of the Organisation

- § 1 The aim of the Organisation shall be to promote, improve and facilitate, in all respects, international traffic by rail, in particular by
- a) establishing systems of uniform law in the following fields of law :
 - 1. contract of international carriage of passengers and goods in international through traffic by rail, including complementary carriage by other modes of transport subject to a single contract;
 - 2. contract of use of wagons as means of transport in international rail traffic;
 - 3. contract of use of infrastructure in international rail traffic;
 - 4. carriage of dangerous goods in international rail traffic;
 - b) contributing to the removal, in the shortest time possible, of obstacles to the crossing of frontiers in international rail traffic, while taking into account special public interests, to the extent that the causes of these obstacles are within the responsibility of States;

- c) contributing to interoperability and technical harmonisation in the railway field by the validation of technical standards and the adoption of uniform technical prescriptions;
- d) establishing a uniform procedure for the technical admission of railway material intended for use in international traffic;
- e) keeping a watch on the application of all the rules and recommendations established within the Organisation;
- f) developing the systems of uniform law, rules and procedures referred to in letters a) to e) taking account of legal, economic and technical developments.

§ 2 The Organisation may

- a) within the framework of the aim referred to in § 1, elaborate other systems of uniform law;
- b) constitute a framework within which the Member States can elaborate other international conventions aiming to promote, improve and facilitate international rail traffic.

Article 3
International cooperation

§ 1 The Member States undertake to concentrate their international cooperation in the railway field, in principle, within the framework of the Organisation, and this to the extent that there exists a coherence in the tasks which are attributed to it in accordance with Articles 2 and 4. To attain this objective, the Member States will adopt all measures necessary and useful in order that the international multilateral conventions and agreements in force to which they are contracting parties should be adapted, to the extent that these conventions and agreements concern international cooperation in the railway field and attribute competences to other intergovernmental or non-governmental organisations which cut across the tasks attributed to the Organisation.

§ 2 The obligations resulting from § 1 for the Member States, which are at the same time Members of the European Communities or States parties to the European Economic Area Agreement, shall not prevail over their obligations as members of the European Communities or States parties to the European Economic Area Agreement.

Article 4
Taking on and transfer of attributions

§ 1 By a decision of the General Assembly, the Organisation shall be authorised to take on, within the framework of its aim as defined in Article 2, the attributions, resources and obligations which may be transferred to it by other intergovernmental organisations by virtue of agreements concluded with those organisations.

- § 2 The Organisation may, by a decision of the General Assembly, transfer to other intergovernmental organisations attributions, resources and obligations, by virtue of agreements concluded with those organisations.
- § 3 The Organisation may, with the approval of the Administrative Committee, take on administrative functions related to its aim and which are entrusted to it by a Member State. The expenses of the Organisation, arising out of these functions, shall be met by the Member State concerned.

Article 5

Special obligations of the Member States

- § 1 The Member States agree to adopt all appropriate measures in order to facilitate and accelerate international rail traffic. To that end, each Member State undertakes, to the extent possible, to
- a) eliminate any useless procedure,
 - b) simplify and standardise the formalities already required,
 - c) simplify frontier checks.
- § 2 In order to facilitate and improve international rail traffic, the Member States agree to lend their support to attain the highest possible degree of uniformity in the regulations, standards, procedures and methods of organisation relating to railway vehicles, railway personnel, railway infrastructure and auxiliary services.
- § 3 The Member States agree to facilitate the conclusion of agreements between infrastructure managers intended to optimise international rail traffic.

Article 6

Uniform Rules

- § 1 So far as declarations are not made in accordance with Article 42 § 1, first sentence, international rail traffic and admission of railway material to use in international traffic shall be governed by:
- a) the “Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV)”, forming Appendix A to the Convention,
 - b) the “Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM)”, forming Appendix B to the Convention,
 - c) the “Regulation concerning the International Carriage of Dangerous Goods by Rail (RID)”, forming Appendix C to the Convention,
 - d) the “Uniform Rules concerning Contracts of Use of Vehicles in International Rail

- Traffic (CUV)", forming Appendix D to the Convention,
- e) the "Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI)", forming Appendix E to the Convention,
 - f) the "Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic (APTU)", forming Appendix F to the Convention,
 - g) the "Uniform Rules concerning Technical Admission of Railway Material used in International Traffic (ATMF)", forming Appendix G to the Convention,
 - h) other systems of uniform law elaborated by the Organisation pursuant to Article 2 § 2, letter a), also forming Appendices to the Convention.
- § 2 The Uniform Rules, the Regulation and the systems listed in § 1, including their Annexes, shall form an integral part of the Convention.

Article 7
Definition of the expression "Convention"

In the following provisions the expression "Convention" covers the Convention itself, the Protocol referred to in article 1 § 4 and the Appendices referred to in Article 6, including their Annexes.

Title II
Common Provisions

Article 8
National law

- § 1 When interpreting and applying the Convention, its character_of international law and the necessity to promote uniformity shall be taken into account.
- § 2 In the absence of provisions in the Convention, national law shall apply.
- § 3 "National law" means the law of the State in which the person entitled asserts his rights, including the rules relating to conflict of laws.

Article 9
Unit of account

- § 1 The unit of account referred to in the Appendices shall be the Special Drawing Right as defined by the International Monetary Fund.
- § 2 The value in Special Drawing Rights of the national currency of a Member State which is a member of the International Monetary Fund shall be calculated in accordance with the method applied by the International Monetary Fund for its own operations and transactions.

- § 3 The value in Special Drawing Rights of the national currency of a Member State which is not a member of the International Monetary Fund shall be calculated by the method determined by that State. This calculation must express in the national currency a real value as close as possible to that which would result from the application of § 2.
- § 4 For a Member State which is not a member of the International Monetary Fund and whose legislation does not permit the application of § 2 or § 3 above, the unit of account referred to in the Appendices shall be deemed to be equal to three gold francs. The gold franc is defined as 10/31 of a gramme of gold of millesimal fineness 900. The conversion of the gold franc must express in the national currency a real value as close as possible to that which would result from the application of § 2.
- § 5 Within three months after the entry into force of the Convention and each time that a change occurs in their method of calculation or in the value of their national currency in relation to the unit of account, States shall notify the Secretary General of their method of calculation in accordance with § 3 or of the results of the conversion in accordance with § 4. The latter shall inform the Member States of these notifications.
- § 6 An amount expressed in units of account shall be converted into the national currency of the State of the court or tribunal seized. The conversion shall be made in accordance with the value of the corresponding currency on the day of the judicial decision or on the day agreed between the parties.

Article 10

Supplementary provisions

- § 1 Two or more Member States or two or more carriers may agree supplementary provisions for the execution of the CIV Uniform Rules and the CIM Uniform Rules; they may not derogate from these Uniform Rules.
- § 2 The supplementary provisions referred to in § 1 shall be put into force and published in the manner required by the laws and prescriptions of each State. The supplementary provisions of States and their coming into force shall be notified to the Secretary General. He shall inform the Member States of these notifications.

Article 11

Security for costs

Security for costs cannot be required in proceedings founded on the CIV Uniform Rules, the CIM Uniform Rules, the CUV Uniform Rules or the CUI Uniform Rules.

Article 12

Execution of judgments. Attachment

- § 1 Judgments pronounced by the competent court or tribunal pursuant to the provisions of the Convention after trial or by default shall, when they have become enforceable under the law applied by that court or tribunal, become enforceable in each of the other Member

States on completion of the formalities required in the State where enforcement is to take place. The merits of the case shall not be subject to review. These provisions shall apply also to judicial settlements.

- § 2 § 1 shall apply neither to judgments which are provisionally enforceable, nor to awards of damages in addition to costs against a plaintiff who fails in his action.
- § 3 Debts arising from a transport operation subject to the CIV Uniform Rules or the CIM Uniform Rules, owed to one transport undertaking by another transport undertaking not under the jurisdiction of the same Member State, may only be attached under a judgment given by the judicial authority of the Member State which has jurisdiction over the undertaking entitled to payment of the debt sought to be attached.
- § 4 Debts arising from a contract subject to the CUV Uniform Rules or the CUI Uniform Rules may only be attached under a judgment given by the judicial authority of the Member State which has jurisdiction over the undertaking entitled to payment of the debts sought to be attached.
- § 5 Railway vehicles may only be seized on a territory other than that of the Member State in which the keeper has its registered office, under a judgment given by the judicial authority of that State. The term “keeper” means the person who, being the owner or having the right to dispose of it, exploits the railway vehicle economically in a permanent manner as a means of transport.

Title III Structure and Functioning

Article 13 Organs

- § 1 The functioning of the Organisation shall be ensured by the following organs:
- a) the General Assembly,
 - b) the Administrative Committee,
 - c) the Revision Committee,
 - d) the Committee of Experts for the Carriage of Dangerous Goods (RID Expert Committee),
 - e) the Rail Facilitation Committee,
 - f) the Committee of Technical Experts,
 - g) the Secretary General.
- § 2 The General Assembly may decide to establish temporarily other committees for specific tasks.
- § 3 On the determination of the quorum in the General Assembly or in the Committees referred to in § 1, letters c) to f), Member States which do not have the right to vote (Article

14 § 5, Article 26 § 7 or Article 40 § 4) shall not be taken into account.

- § 4 The chairmanship of the General Assembly, the chairmanship of the Administrative Committee as well as the function of Secretary General must, in principle, be conferred on nationals of different Member States.

Article 14 **General Assembly**

§ 1 The General Assembly shall be composed of all Member States.

§ 2 The General Assembly shall :

- a) establish its rules of procedure;
- b) designate the members of the Administrative Committee as well as a deputy member for each member and elect the Member State which will provide the chairmanship of it (Article 15 §§ 1 to 3);
- c) elect the Secretary General (Article 21 § 2);
- d) issue directives concerning the activity of the Administrative Committee and the Secretary General;
- e) fix, for six-year periods, the maximum amount that the expenditure of the Organisation may reach in each budgetary period (article 25); if not, it shall issue directives relating to the limitation of that expenditure for a period no longer than six years;
- f) decide whether the headquarters of the Organisation should be located at another place (Article 1 § 2);
- g) take decisions about the introduction of other working languages (Article 1 § 6);
- h) take decisions about the taking on of other attributions by the Organisation (Article 4 § 1) and the transfer of attributions of the Organisation to another intergovernmental organisation (Article 4 § 2);
- i) decide, if necessary, on the temporary establishment of other committees for specific tasks (Article 13 § 2);
- j) consider whether the attitude of a State should be regarded as a tacit denunciation (Article 26 § 7);
- k) decide whether to entrust the carrying out of the auditing of the accounts to another Member State than the Headquarters State (Article 27 § 1);
- l) take decisions about proposals aiming to modify the Convention (Article 33 §§ 2 and

3);

- m) take decisions about applications for accession submitted to the General Assembly (Article 37 § 4);
 - n) take decisions about the conditions of accession of a regional economic integration organisation (Article 38 § 1);
 - o) take decisions about applications for association submitted to it (Article 39 § 1);
 - p) take decisions about the dissolution of the Organisation and about the possible transfer of its attributions to another intergovernmental organisation (Article 43);
 - q) take decisions about other questions placed on the agenda.
- § 3 The Secretary General shall convene the General Assembly once every three years or at the request either of one-third of the Member States or of the Administrative Committee, as well as in the cases referred to in Article 33 §§ 2 and 3 and in Article 37 § 4. He shall send the draft agenda to the Member States at least three months before the opening of the session, in accordance with the conditions defined by the rules of procedure referred to in § 1, letter a).
- § 4 There shall be a quorum (Article 13 § 3) in the General Assembly when the majority of the Member States are represented there. A Member State may arrange to be represented by another Member State; however a State may not represent more than one other State.
- § 5 In the case of a vote in the General Assembly concerning modifications of the Appendices to the Convention, Member States which have made a declaration in respect of the Appendix in question pursuant to Article 42 § 1, first sentence, shall not have the right to vote.
- § 6 The General Assembly shall take its decisions by the majority of the Member States represented at the time of the vote, save in the case of § 2, letters e), f), g), h), l) and p) as well as of Article 34 § 6, for which the majority shall be two-thirds. However, in the case of § 2, letter l) the majority shall be two-thirds only in the case of proposals aiming to modify the Convention itself, with the exception of Articles 9 and 27 §§ 2 to 10 and the Protocol referred to in Article 1 § 4.
- § 7 On the invitation of the Secretary General, issued with the agreement of a majority of the Member States,
- a) States which are not members of the Organisation,
 - b) international organisations and associations having competence for questions concerning the Organisation's activities or dealing with problems which have been placed on the agenda,

may attend sessions of the General Assembly in an advisory capacity.

Article 15 **Administrative Committee**

- § 1 The Administrative Committee shall be composed of a third of the Member States.
- § 2 The members of the Committee and one deputy member for each of them as well as the Member State which chairs the Committee shall be designated for three years. The composition of the Committee shall be determined for each period, having regard in particular to an equitable geographical distribution. A deputy member that becomes a member of the Committee in the course of a period must be designated as a member of the Committee for the period which follows.
- § 3 If a vacancy occurs or the right to vote of a member is suspended or in the case of absence of a member for two consecutive sessions of the Committee, without the member arranging to be represented by another member in accordance with § 6, the deputy member designated by the General Assembly shall exercise its functions for the remainder of the period.
- § 4 With the exception of the case referred to in § 3, no Member State may sit on the Committee for more than two full consecutive periods.
- § 5 The Committee shall :
- a) establish its rules of procedure;
 - b) conclude the Headquarters Agreement;
 - c) establish the staff regulation for the Organisation;
 - d) appoint, taking account of the ability of the candidates and an equitable geographical distribution, the senior officers of the Organisation;
 - e) establish a regulation concerning the finances and book-keeping of the Organisation;
 - f) approve the work programme, budget, management report and accounts of the Organisation;
 - g) fix, on the basis of the approved accounts, the definitive contributions due from the Member States in accordance with Article 26 for the two previous calendar years, as well as the amount of the treasury advance due from the Member States in accordance with Article 26 § 5 for the current year and the next calendar year;
 - h) determine the attributions of the Organisation which concern all the Member States or only some of the Member States as well as the expenses to be borne, in consequence, by these Member States (Article 26 § 4);

- i) fix the amount of specific remuneration (Article 26 § 11);
 - j) issue special directives concerning the auditing of accounts (Article 27 § 1);
 - k) approve the taking on of administrative functions by the Organisation (Article 4 § 3) and fix the specific contributions due from the Member State concerned;
 - l) send to the Member States the management report, the statement of accounts as well as its decisions and recommendations;
 - m) prepare and send to the Member States, with a view to the General Assembly which is to decide the composition of the Committee, at least two months before the opening of the session, a report on its activity as well as proposals as to how it should be reconstituted (Article 14 § 2, letter b));
 - n) keep a check on the conduct of business by the Secretary General;
 - o) keep a watch on the proper application of the Convention by the Secretary General and the execution, by the Secretary General, of decisions taken by the other organs; to this end, the Committee may take all measures likely to improve the application of the Convention and of the above mentioned decisions;
 - p) give reasoned opinions on questions which may affect the work of the Organisation and are submitted to the Committee by a Member State or by the Secretary General;
 - q) resolve disputes between a Member State and the Secretary General with respect to his function as Depositary (Article 36 § 2);
 - r) take decisions about applications for suspension of membership (Article 40).
- § 6 There shall be a quorum in the Administrative Committee when two-thirds of its members are represented there. However, a member may arrange to be represented by another member; no member may however represent more than one other member.
- § 7 The Committee shall take its decisions by the majority of the members represented at the time of vote.
- § 8 Unless it decides otherwise, the Committee shall meet at the headquarters of the Organisation. The minutes of its meetings shall be sent to all Member States.
- § 9 The Chairman of the Committee shall :
- a) convene the Committee at least once a year as well as at the request of four of its members or of the Secretary General;
 - b) send to the members of the Committee the draft agenda;

- c) deal, within the limits and under the conditions laid down in the rules of procedure, with urgent questions arising in the interval between meetings;
- d) sign the Headquarters Agreement referred to in § 5, letter b).

§ 10 The Committee may, within the limits of its own responsibilities, instruct the Chairman to carry out certain specific tasks.

Article 16 **Other Committees**

§ 1 The Committees referred to in Article 13 § 1, letters c) to f) and § 2 shall be composed, in principle, of all Member States. When the Revision Committee, the RID Expert Committee or the Committee of Technical Experts deliberate and take decisions, within the limits of their competence, about modifications of the Appendices to the Convention, Member States which have made a declaration in respect of the Appendices in question pursuant to Article 42 § 1, first sentence, shall not be members of the Committee concerned.

§ 2 The Secretary General shall convene the Committees either on his own initiative or at the request of five Member States or of the Administrative Committee. The Secretary General shall send the draft agenda to the Member States at least two months before the opening of the meeting.

§ 3 A Member State may arrange to be represented by another Member State; no State may however represent more than two other States.

§ 4 Each Member State represented shall have one vote. A proposal shall be adopted if the number of votes in favour is :

- a) equal to at least one-third of the number of Member States represented at the time of the vote and
- b) greater than the number of votes against.

§ 5 On the invitation of the Secretary General, issued with the agreement of a majority of the Member States,

- a) States which are not members of the Organisation,
- b) Member States which, however, are not members of the Committee concerned,
- c) international organisations and associations having competence for questions concerning the Organisation's activities or dealing with problems which have been placed on the agenda,

may attend meetings of the Committees in an advisory capacity.

- § 6 The Committees shall elect for each meeting or for an agreed period a Chairman and one or several Deputy Chairmen.
- § 7 The proceedings shall be conducted in the working languages. The substance of what is said during a meeting in one of the working languages shall be translated into the other working languages; proposals and decisions shall be translated in full.
- § 8 The minutes shall summarise the proceedings. Proposals and decisions shall be reproduced in full. With regard to decisions, the French text shall prevail. The minutes shall be sent to all Member States.
- § 9 The Committees may appoint working groups to deal with specific questions.
- § 10 The Committees shall establish their rules of procedure.

Article 17
Revision Committee

- § 1 The Revision Committee shall :
- a) take decisions, in accordance with Article 33 § 4, about proposals aiming to modify the Convention;
 - b) consider proposals to be submitted, in accordance with Article 33 § 2, to the General Assembly for decision.
- § 2 There shall be a quorum (Article 13 § 3) in the Revision Committee when the majority of the Member States are represented there.

Article 18
RID Expert Committee

- § 1 The RID Expert Committee shall take decisions, in accordance with Article 33 § 5, about proposals aiming to modify the Convention.
- § 2 There shall be a quorum (Article 13 § 3) in the RID Expert Committee when one-third of the Member States are represented there.

Article 19
Rail Facilitation Committee

- § 1 The Rail Facilitation Committee shall :
- a) give its opinion on all questions aiming to facilitate frontier crossing in international rail traffic;

- b) recommend standards, methods, procedures and practices relating to rail facilitation.

§ 2 There shall be a quorum (Article 13 § 3) in the Rail Facilitation Committee when one-third of the Member States are represented there.

Article 20

Committee of Technical Experts

§ 1 The Committee of Technical Experts shall :

- a) take decisions, in accordance with Article 5 of the APTU Uniform Rules, about the validation of a technical standard relating to railway material intended to be used in international traffic;
- b) take decisions, in accordance with Article 6 of the APTU Uniform Rules, about the adoption of a uniform technical prescription relating to the construction, operation, maintenance or relating to a procedure concerning railway material intended to be used in international traffic;
- c) keep a watch on the application of technical standards and uniform technical prescriptions relating to railway material intended to be used in international traffic and examine their development with a view to their validation or adoption in accordance with the procedures provided for in Articles 5 and 6 of the APTU Uniform Rules;
- d) take decisions, in accordance with Article 33 § 6, about proposals aiming to modify the Convention;
- e) deal with all other matters which are assigned to it in accordance with the APTU Uniform Rules and the ATMF Uniform Rules.

§ 2 There shall be a quorum (Article 13 § 3) in the Committee of Technical Experts, when one-half of the Member States, within the meaning of Article 16 § 1, are represented there. When the Committee is taking decisions about provisions of the Annexes to the APTU Uniform Rules, Member States which have made an objection, in accordance with Article 35 § 4, with regard to the provisions concerned or have made a declaration, in accordance with Article 9 § 1 of the APTU Uniform Rules, shall not have the right to vote.

§ 3 The Committee of Technical Experts may either validate technical standards or adopt uniform technical prescriptions or refuse to validate or adopt them; it may not under any circumstances modify them.

Article 21

Secretary General

§ 1 The Secretary General shall assume the functions of Secretariat of the Organisation.

§ 2 The Secretary General shall be elected by the General Assembly for a period of three

years, renewable twice at most.

§ 3 The Secretary General must, in particular :

- a) assume the functions of Depositary (Article 36);
- b) represent the Organisation externally;
- c) send to Member States the decisions taken by the General Assembly and by the Committees (Article 34 § 1, Article 35 § 1);
- d) carry out the duties entrusted to him by the other organs of the Organisation;
- e) examine proposals of the Member States aiming to modify the Convention, if necessary with the assistance of experts;
- f) convene the General Assembly and the other Committees (Article 14 § 3, Article 16 § 2);
- g) send to Member States, in due time, the documents necessary for the meetings of the various organs;
- h) draw up the work programme, draft budget and management report of the Organisation and submit them to the Administrative Committee for approval (Article 25);
- i) manage the financial affairs of the Organisation within the limits of the approved budget;
- j) endeavour, at the request of one of the parties concerned, by using his good offices, to settle disputes between them arising from the interpretation or application of the Convention;
- k) give, at the request of all parties concerned, an opinion on disputes arising from the interpretation or application of the Convention;
- l) assume the functions which are attributed to him by Title V;
- m) receive communications from the Member States, international organisations and associations referred to in Article 16 § 5, and from the undertakings (carriers, infrastructure managers, etc.) participating in international rail traffic, and notify them, where appropriate, to the other Member States, international organisations and associations as well as undertakings;
- n) exercise the management of the staff of the Organisation;
- o) inform the Member States, in due time, of any vacancy in the posts of the Organisation;

p) maintain and publish the lists of lines and services referred to in Article 24.

§ 4 The Secretary General may, on his own initiative, present proposals aiming to modify the Convention.

Article 22

Staff of the Organisation

The rights and duties of the staff of the Organisation shall be laid down by the staff regulation established by the Administrative Committee in accordance with Article 15 § 5, letter c).

Article 23

Bulletin

§ 1 The Organisation shall publish a bulletin which shall contain official communications as well as others necessary or useful with respect to the application of the Convention.

§ 2 The communications for which the Secretary General is responsible under the Convention may, if necessary, be made in the form of a publication in the Bulletin.

Article 24

Lists of lines or services

§ 1 The maritime and inland waterway services referred to in Article 1 of the CIV Uniform Rules and of the CIM Uniform Rules, on which carriage is performed in addition to carriage by rail subject to a single contract of carriage, shall be included in two lists :

- a) the CIV list of maritime and inland waterway services,
- b) the CIM list of maritime and inland waterway services.

§ 2 The railway lines of a Member State which has lodged a reservation in accordance with Article 1 § 6 of the CIV Uniform Rules or in accordance with Article 1 § 6 of the CIM Uniform Rules shall be included in two lists in accordance with that reservation :

- a) the CIV list of railway lines,
- b) the CIM list of railway lines.

§ 3 Member States shall send to the Secretary General their notifications concerning the inclusion or deletion of lines or services referred to in §§ 1 and 2. In so far as they link Member States, the maritime and inland waterway services referred to in § 1 shall only be included in the lists with the agreement of those States; for the deletion of such a service, notification by one of those States shall suffice.

§ 4 The Secretary General shall notify all Member States of the inclusion or deletion of a line or a service.

§ 5 Carriage on the maritime and inland waterway services referred to in § 1 and carriage on the railway lines referred to in § 2 shall be subject to the provisions of the Convention on

the expiration of one month running from the date of the notification of their inclusion by the Secretary General. Such a service or line shall cease to be subject to the provisions of the Convention on the expiration of three months running from the date of the notification of the deletion by the Secretary General, save in respect of carriage underway which must be finished.

Title IV Finances

Article 25

Work programme. Budget. Accounts. Management report

- § 1 The work programme, budget and accounts of the Organisation shall cover a period of two calendar years.
- § 2 The Organisation shall publish a management report at least every two years.
- § 3 The total amount of expenditure of the Organisation shall be fixed, for each budgetary period, by the Administrative Committee on a proposal by the Secretary General.

Article 26

Financing the expenditure

- § 1 Subject to §§ 2 to 4, the expenditure of the Organisation, not covered by other receipts, shall be met by the Member States as to two fifths on the basis of the United Nations system of apportioning contributions, and as to three fifths in proportion to the total length of railway infrastructure as well as of the maritime and inland waterway services included in accordance with Article 24 § 1. However, maritime and inland waterway services shall count only in respect of one-half of the length of their routes.
- § 2 When a Member State has lodged a reservation in accordance with Article 1 § 6 of the CIV Uniform Rules or in accordance with Article 1 § 6 of the CIM Uniform Rules, the contribution formula referred to in § 1 shall be applied as follows :
 - a) instead of the total length of railway infrastructure on the territory of that Member State only the length of railway lines included in accordance with Article 24 § 2 shall be taken into account;
 - b) the part of the contribution according to the United Nations system shall be calculated pro rata as a function of the length of the lines and services included in accordance with Article 24 §§ 1 and 2 in relation to the total length of railway infrastructure on the territory of that Member State plus the length of the services included in accordance with Article 24 § 1, but with a minimum of 0.01 per cent.
- § 3 Each Member State shall meet at least 0.25 per cent and at most 15 per cent of the contributions.
- § 4 The Administrative Committee shall determine the attributions of the Organisation

concerning

- a) all the Member States equally and the expenditure which shall be met by all Member States according to the formula referred to in § 1,

- b) only some of the Member States and the expenditure which shall be met by those Member States according to the same formula.

§ 3 shall apply mutatis mutandis. These provisions shall not affect Article 4 § 3.

- § 5 The contributions of the Member States to the expenditure of the Organisation shall be due in the form of a treasury advance payable in two instalments at the latest by the 31 October of each of the two years covered by the budget. The treasury advance shall be fixed on the basis of the definitive contributions for the two preceding years.
- § 6 When sending the management report and statement of accounts to the Member States, the Secretary General shall notify the definitive amount of the contribution for the two previous calendar years as well as the amount of the treasury advance in respect of the two calendar years to come.
- § 7 After the 31 December of the year the notification is made by the Secretary General in accordance with § 6, the amounts due for the last two calendar years shall bear interest at the rate of five per cent per annum. If, one year after that date, a Member State has not paid its contribution, its right to vote shall be suspended until it has fulfilled its obligation to pay. On expiry of a further period of two years, the General Assembly shall consider whether the attitude of that State should be regarded as a tacit denunciation of the Convention and, where necessary, shall determine the effective date thereof.
- § 8 Contributions overdue shall remain payable in the cases of denunciation pursuant to § 7 or Article 41, and in cases of suspension of the right to vote referred to in Article 40 § 4, letter b).
- § 9 Sums not recovered shall be made good out of the resources of the Organisation.
- § 10 A Member State which has denounced the Convention may become a Member State again by accession, provided that it has paid the sums which it owes.
- § 11 A charge shall be made by the Organisation to cover the special expenses arising from activities provided for in Article 21 § 3, letters j) to l). In the cases provided for in Article 21 § 3, letters j) and k), that charge shall be determined by the Administrative Committee on the basis of a proposal by the Secretary General. In the case provided for in Article 21 § 3, letter l), Article 31 § 3 shall apply.

Article 27

Auditing of accounts

- § 1 In the absence of a contrary decision by the General Assembly pursuant to article 14 § 2, letter k), the auditing of accounts shall be carried out by the Headquarters State, according to the rules laid down in this Article and, subject to any special directives of the Administrative Committee, in conformity with the Financial and Accounting Regulation of the Organisation (Article 15 § 5, letter e)).

- § 2 The Auditor shall audit the accounts of the Organisation, including all the trust funds and special accounts, as he considers necessary in order to ensure :
- a) that the financial statements are in conformity with the ledgers and accounts of the Organisation;
 - b) that the financial transactions which the statements account for have been carried out in conformity with the rules and regulations, budgetary provisions and other directives of the Organisation;
 - c) that effects and cash held at banks or in the cash box have either been audited by reference to certificates received directly from the depositaries, or actually counted;
 - d) that the internal checks, including the internal audit of the accounts, are adequate;
 - e) that all assets and liabilities as well as all surpluses and deficits have been posted according to procedures that he considers satisfactory.
- § 3 Only the Auditor shall be competent to accept in whole or in part certificates and supporting documents furnished by the Secretary General. If he considers it appropriate, he may undertake an examination and detailed audit of any accounting record relating either to financial transactions or to supplies and equipment.
- § 4 The Auditor shall have unrestricted access, at any time, to all ledgers, accounts, accounting documents and other information which he considers needful.
- § 5 The Auditor shall not be competent to reject such and such a heading of the accounts, but he shall immediately draw to the attention of the Secretary General any transaction of which the regularity or appropriateness appears to him to be questionable, so that the latter may take the requisite measures.
- § 6 The Auditor shall present and sign a certificate in respect of the financial statements with the following wording: "I have examined the financial statements of the Organisation for the budgetary period which ended on 31 December..... My examination consisted of a general analysis of the accounting methods and the checking of the accounting records and other evidence which I judged necessary in the circumstances." That certificate shall indicate, according to the circumstances, that:
- a) the financial statements satisfactorily reflect the financial position at the date of expiry of the period in question as well as the results of the transactions carried out during the period which ended on that date;
 - b) the financial statements have been drawn up in accordance with the accounting principles mentioned;
 - c) the financial principles have been applied in accordance with procedures which accord with those adopted during the previous budgetary period;

- d) the financial transactions have been carried out in conformity with the rules and regulations, budgetary provisions and other directives of the Organisation.

§ 7 In his report on the financial transactions, the Auditor shall mention:

- a) the nature and extent of the audit which he has carried out;
- b) factors connected with the completeness or correctness of the accounts, including as appropriate :
 1. information necessary for the correct interpretation and assessment of the accounts;
 2. any sum which ought to have been collected but which has not been passed to account;
 3. any sum which has been the subject of a regular or conditional expenditure commitment and which has not been posted or which has not been taken into account in the financial statements;
 4. expenditure in support of which no sufficient vouchers have been produced;
 5. whether or not ledgers have been kept in good and due form; it is necessary to note cases where the material presentation of the financial statements diverges from accounting principles generally recognised and invariably applied;
- c) other matters to which the attention of the Administrative Committee should be drawn, for example:
 1. cases of fraud or presumption of fraud;
 2. wastage or irregular use of funds or other assets of the Organisation (even when the accounts relating to the transaction carried out were in order);
 3. expenditure which could subsequently lead to considerable costs for the Organisation;
 4. any defects, general or particular, in the system of checking receipts and expenses or supplies and equipment;
 5. expenditure not in conformity with the intentions of the Administrative Committee, taking account of transfers duly authorised within the draft budget;
 6. overstepping of appropriations, taking account of changes resulting from transfers duly authorised within the draft budget;
 7. expenditure not in conformity with the authorisations which govern it;
- d) the correctness or incorrectness of the accounts relating to supplies and equipment, established from the inventory and the examination of the ledgers.

In addition, the report may mention transactions which have been posted in the course of an earlier budgetary period and about which new information has been obtained or transactions which are to be carried out in the course of a later financial period and about which it seems desirable to inform the Administrative Committee in advance.

§ 8 The Auditor must on no account include criticisms in his report without first affording the

Secretary General an opportunity of giving an explanation.

- § 9 The Auditor shall inform the Administrative Committee and the Secretary General of the findings of the audit. He may, in addition, submit any comments that he considers appropriate about the financial report of the Secretary General.
- § 10 Where the Auditor has carried out a summary audit or has not obtained adequate supporting documents, he must mention the fact in his certificate and his report, specifying the reasons for his observations as well as the consequences which result therefrom for the financial position and the posted financial transactions.

Title V Arbitration

Article 28 Competence

- § 1 Disputes between Member States arising from the interpretation or application of the Convention, as well as disputes between Member States and the Organisation arising from the interpretation or application of the Protocol on Privileges and Immunities may, at the request of one of the parties, be referred to an Arbitration Tribunal. The parties shall freely determine the composition of the Arbitration Tribunal and the arbitration procedure.
- § 2 Other disputes arising from the interpretation or application of the Convention and of other conventions elaborated by the Organisation in accordance with Article 2 § 2, if not settled amicably or brought before the ordinary courts or tribunals may, by agreement between the parties concerned, be referred to an Arbitration Tribunal. Articles 29 to 32 shall apply to the composition of the Arbitration Tribunal and the arbitration procedure.
- § 3 Any State may, at the time of its application for accession to the Convention, reserve the right not to apply all or part of the provisions of §§ 1 and 2.
- § 4 A State which has made a reservation pursuant to § 3 may withdraw it at any time by informing the Depositary. This withdrawal shall take effect one month after the date on which the Depositary notifies it to the Member States.

Article 29 Agreement to refer to arbitration. Registrar

The Parties shall conclude an agreement to refer to arbitration, which shall, in particular, specify:

- a) the subject matter of the dispute;

- b) the composition of the Tribunal and the period agreed for nomination of the arbitrator or arbitrators;
- c) the place where it is agreed that the Tribunal is to sit.

The agreement to refer to arbitration must be communicated to the Secretary General who shall act as Registrar.

Article 30 Arbitrators

- § 1 A panel of arbitrators shall be established and kept up to date by the Secretary General. Each Member State may nominate two of its nationals to the panel of arbitrators.
- § 2 The Arbitration Tribunal shall be composed of one, three or five arbitrators in accordance with the agreement to refer to arbitration. The arbitrators shall be selected from persons who are on the panel referred to in § 1. Nevertheless, if the agreement to refer to arbitration provides for five arbitrators, each of the parties may select one arbitrator who is not on the panel. If the agreement to refer to arbitration provides for a sole arbitrator, he shall be selected by mutual agreement between the parties. If the agreement to refer to arbitration provides for three or five arbitrators, each party shall select one or two arbitrators as the case may be; these, by mutual agreement, shall appoint the third or fifth arbitrator, who shall be President of the Arbitration Tribunal. If the parties cannot agree on the selection of a sole arbitrator, or the selected arbitrators cannot agree on the appointment of a third or fifth arbitrator, the appointment shall be made by the Secretary General.
- § 3 The sole arbitrator, or the third or fifth arbitrator, must be of a nationality other than that of either party, unless both are of the same nationality.
- § 4 The intervention of a third party in the dispute shall not affect the composition of the Arbitration Tribunal.

Article 31 Procedure. Costs

- § 1 The Arbitration Tribunal shall decide the procedure to be followed having regard in particular to the following provisions:
 - a) it shall enquire into and determine cases on the basis of the evidence submitted by the parties, but will not be bound by their interpretations when it is called upon to decide a question of law;
 - b) it may not award more than the claimant has claimed, nor anything of a different nature, nor may it award less than the defendant has acknowledged as due;
 - c) the arbitration award, setting forth the reasons for the decision, shall be drawn up by the Arbitration Tribunal and notified to the parties by the Secretary General;

d) save where the mandatory provisions of the law of the place where the Arbitration Tribunal is sitting otherwise provide and subject to contrary agreement by the parties, the arbitration award shall be final.

§ 2 The fees of the arbitrators shall be determined by the Secretary General.

§ 3 The Tribunal shall determine in its award the amount of costs and expenses and shall decide how they and the fees of the arbitrators are to be apportioned between the parties.

Article 32 Limitation. Enforcement

§ 1 The commencement of arbitration proceedings shall have the same effect, as regards the interruption of periods of limitation, as that attributed by the applicable provisions of substantive law to the institution of an action in the ordinary courts or tribunals.

§ 2 The Arbitration Tribunal's award shall become enforceable in each of the Member States on completion of the formalities required in the State where enforcement is to take place. The merits of the case shall not be subject to review.

Title VI Modification of the Convention

Article 33 Competence

§ 1 The Secretary General shall immediately bring to the notice of the Member States proposals aiming to modify the Convention, which have been sent to him by the Member States or which he has prepared himself.

§ 2 The General Assembly shall take decisions about proposals aiming to modify the Convention in so far as §§ 4 to 6 do not provide for another competence.

§ 3 When seized of a modification proposal the General Assembly may decide, by the majority provided for under Article 14 § 6, that such proposal is closely linked with one or more provisions of the Appendices to the Convention. In that case as well as in the cases referred to in §§ 4 to 6, second sentences, the General Assembly is also empowered to take decisions about the modification of such provision or provisions of the Appendices.

§ 4 Subject to decisions taken by the General Assembly in accordance with § 3, first sentence, the Revision Committee shall take decisions about proposals aiming to modify :

a) Articles 9 and 27 §§ 2 to 10;

b) the CIV Uniform Rules except Articles 1, 2, 5, 6, 16, 26 to 39, 41 to 53 and 56 to 60;

c) the CIM Uniform Rules except Articles 1, 5, 6 §§ 1 and 2, Articles 8, 12, 13 § 2,

Articles 14, 15 §§ 2 and 3, Article 19 §§ 6 and 7 and Articles 23 to 27, 30 to 33, 36 to 41 and 44 to 48;

- d) the CUV Uniform Rules except Articles 1, 4, 5 and 7 to 12;
- e) the CUI Uniform Rules except Articles 1, 2, 4, 8 to 15, 17 to 19, 21, 23 to 25;
- f) the APTU Uniform Rules except Articles 1, 3 and 9 to 11 and the Annexes of these Uniform Rules;
- g) the ATMF Uniform Rules except Articles 1, 3 and 9.

When modification proposals are submitted to the Revision Committee in accordance with letters a) to g), one-third of the States represented on the Committee may require these proposals to be submitted to the General Assembly for decision.

- § 5 The RID Expert Committee shall take decisions about proposals aiming to modify the provisions of the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID). When such proposals are submitted to the RID Expert Committee, one-third of the States represented on the Committee may require these proposals to be submitted to the General Assembly for decision.
- § 6 The Committee of Technical Experts shall decide on proposals aiming to modify the Annexes to the APTU Uniform Rules. When such proposals are submitted to the Committee of Technical Experts, one-third of the States represented on the Committee may require these proposals to be submitted to the General Assembly for decision.

Article 34

Decisions of the General Assembly

- § 1 Modifications of the Convention decided upon by the General Assembly shall be notified to the Member States by the Secretary General.
- § 2 Modifications of the Convention itself, decided upon by the General Assembly, shall enter into force for all Member States twelve months after their approval by two-thirds of the Member States with the exception of those which, before the entry into force, have made a declaration in terms that they do not approve such modifications.
- § 3 Modifications of the Appendices to the Convention, decided upon by the General Assembly, shall enter into force for all Member States twelve months after their approval by half of the Member States which have not made a declaration pursuant to Article 42 § 1, first sentence, with the exception of those which, before the entry into force, have made a declaration in terms that they do not approve such modifications and with the exception of those which have made a declaration pursuant to Article 42 § 1, first sentence.
- § 4 The Member States shall address their notifications concerning the approval of modifications of the Convention decided upon by the General Assembly as well as their declarations in terms that they do not approve such modifications, to the Secretary General. The Secretary General shall give notice of them to the other Member States.

- § 5 The period referred to in §§ 2 and 3 shall run from the day of the notification by the Secretary General that the conditions for the entry into force of the modifications are fulfilled.
- § 6 The General Assembly may specify, at the time of adoption of a modification, that it is such that any Member State which will have made a declaration pursuant to § 2 or § 3 and which will not have approved the modification within the period of eighteen months running from its entry into force will cease, on the expiration of this period, to be a Member State of the Organisation.
- § 7 When decisions of the General Assembly concern Appendices to the Convention, the application of the Appendix in question shall be suspended, in its entirety, from the entry into force of the decisions, for traffic with and between the Member States which have, in accordance with § 3, opposed the decisions within the period allowed. The Secretary General shall notify the Member States of that suspension; it shall come to an end on the expiration of a month from the day on which the Secretary General notified the other Member States of the withdrawal of opposition.

Article 35

Decisions of the Committees

- § 1 Modifications of the Convention, decided upon by the Committees, shall be notified to the Member States by the Secretary General.
- § 2 Modifications of the Convention itself, decided upon by the Revision Committee, shall enter into force for all Member States on the first day of the twelfth month following that during which the Secretary General has given notice of them to the Member States. Member States may formulate an objection during the four months from the day of the notification. In the case of objection by one-quarter of the Member States, the modification shall not enter into force. If a Member State formulates an objection against a decision of the Revision Committee within the period of four months and it denounces the Convention, the denunciation shall take effect on the date provided for the entry into force of that decision.
- § 3 Modifications of Appendices to the Convention, decided upon by the Revision Committee, shall enter into force for all Member States on the first day of the twelfth month following that during which the Secretary General has given notice of them to the Member States. Modifications decided upon by the RID Expert Committee or by the Committee of Technical Experts shall enter into force for all Member States on the first day of the sixth month following that during which the Secretary General has given notice of them to the Member States.
- § 4 Member States may formulate an objection within the period of four months from the day of the notification referred to in § 3. In the case of objection by one-quarter of the Member States, the modification shall not enter into force. In the Member States which have formulated objections against a decision within the period allowed, the application of the

Appendix in question shall be suspended, in its entirety, from the moment the decisions take effect, in so far as concerns traffic with and between those Member States. However, in the case of objection to the validation of a technical standard or to the adoption of a uniform technical prescription, only that standard or prescription shall be suspended in respect of traffic with and between the Member States from the time the decisions take effect; the same shall apply in the case of a partial objection.

- § 5 The Secretary General shall notify the Member States of the suspensions referred to in § 4; the application shall no longer be suspended after the expiry of a period of one month from the day when the Secretary General has given notice to the other Member States of the withdrawal of such an objection.
- § 6 In the determination of the number of objections referred to in §§ 2 and 4, Member States which
- a) do not have the right to vote (Article 14 § 5, Article 26 § 7 or Article 40 § 4),
 - b) are not members of the Committee concerned (article 16 § 1, second sentence),
 - c) have made a declaration in accordance with Article 9 § 1 of the APTU Uniform Rules
- shall not be taken into account.

Title VII Final Provisions

Article 36 Depositary

- § 1 The Secretary General shall be the Depositary of this Convention. His functions as the Depositary shall be those set forth in Part VII of the Vienna Convention on the Law of Treaties of 23 May 1969.
- § 2 When a dispute arises between a Member State and the Depositary about the performance of his functions, the Depositary or the Member State concerned must bring the question to the attention of the other Member States or, if appropriate, submit it for resolution by the Administrative Committee.

Article 37 Accession to the Convention

- § 1 Accession to the Convention shall be open to any State on the territory of which railway infrastructure is operated.
- § 2 A State wishing to accede to the Convention shall address an application to the Depositary. The Depositary shall notify it to the Member States.
- § 3 The application shall be deemed to be accepted three months after the notification

referred to in § 2, unless five Member States lodge objections with the Depositary. The Depositary shall, without delay, notify the applicant State as well as the Member States accordingly. The accession shall take effect on the first day of the third month following that notification.

- § 4 In the event of opposition from at least five Member States within the period provided for in § 3, the application for accession shall be submitted to the General Assembly for decision.
- § 5 Subject to Article 42, any accession to the Convention may only relate to the Convention in its version in force at the time when the accession takes effect.

Article 38

Accession of regional economic integration organisations

- § 1 Accession to the Convention shall be open to regional economic integration organisations which have competence to adopt their own legislation binding on their Member States, in respect of the matters covered by this Convention and of which one or more Member States are members. The conditions of that accession shall be defined in an agreement concluded between the Organisation and the regional organisation.
- § 2 The regional organisation may exercise the rights enjoyed by its members by virtue of the Convention to the extent that they cover matters for which it is competent. This applies also to the obligations imposed on the Member States pursuant to the Convention, with the exception of the financial obligations referred to in Article 26.
- § 3 For the purposes of the exercise of the right to vote and the right to object provided for in Article 35 §§ 2 and 4, the regional organisation shall enjoy the number of votes equal to those of its members which are also Member States of the Organisation. The latter may only exercise their rights, in particular their right to vote, to the extent allowed by § 2. The regional organisation shall not enjoy the right to vote in respect of Title IV.
- § 4 Article 41 shall apply *mutatis mutandis* to the termination of the accession.

Article 39

Associate Members

- § 1 Any State on whose territory railway infrastructure is operated may become an Associate Member of the Organisation. Article 32 §§ 2 to 5 shall apply *mutatis mutandis*.
- § 2 An Associate Member may participate in the work of the organs mentioned in Article 13 § 1, letters a) and c) to f) only in an advisory capacity. An Associate Member may not be designated as a member of the Administrative Committee. It shall contribute to the expenditure of the Organisation with 0.25 per cent of the contributions (Article 26 § 3).
- § 3 Article 41 shall apply *mutatis mutandis* to the termination of the association.

Article 40
Suspension of membership

- § 1 A Member State may request, without denouncing the Convention, a suspension of its membership of the Organisation, when international rail traffic is no longer carried out on its territory for reasons not attributable to that Member State.
- § 2 The Administrative Committee shall take a decision about a request for suspension of membership. The request must be lodged with the Secretary General at least three months before a session of the Committee.
- § 3 The suspension of membership shall enter into force on the first day of the month following the notification by the Secretary General of the decision of the Administrative Committee. The suspension of membership shall terminate with the notification by the Member State that international rail traffic on its territory is restored. The Secretary General shall, without delay, give notice of it to the other Member States.
- § 4 Suspension of membership shall have as a consequence :
- a) to free the Member State from its obligation to contribute to the financing of the expenses of the Organisation;
 - b) to suspend the right to vote in the organs of the Organisation;
 - c) to suspend the right to object pursuant to Article 34 §§ 2 and 3 and Article 35 §§ 2 and 4.

Article 41
Denunciation of the Convention

- § 1 The Convention may be denounced at any time.
- § 2 Any Member State which wishes to denounce the Convention shall so inform the Depositary. The denunciation shall take effect on 31 December of the following year.

Article 42
Declarations and reservations to the Convention

- § 1 Any Member State may declare, at any time, that it will not apply in their entirety certain Appendices to the Convention. Furthermore, reservations as well as declarations not to apply certain provisions of the Convention itself or of its Appendices shall only be allowed if such reservations and declarations are expressly provided for by the provisions themselves.
- § 2 The reservations and declarations shall be addressed to the Depositary. They shall take effect at the moment the Convention enters into force for the State concerned. Any declaration made after that entry into force shall take effect on 31 December of the year following the declaration. The Depositary shall give notice of this to the Member States.

Article 43
Dissolution of the Organisation

- § 1 The General Assembly may decide upon a dissolution of the Organisation and the possible transfer of its attributions to another intergovernmental organisation laying down, where appropriate, with that organisation the conditions of this transfer.
- § 2 In the case of the dissolution of the Organisation, its assets shall be distributed between the Member States which have been members of the Organisation, without interruption, during the last five calendar years preceding that of the decision pursuant to § 1, this in proportion to the average percentage rate at which they have contributed to the expenses of the Organisation during these five preceding years.

Article 44
Transitional provision

In the cases provided for in Article 34 § 7, Article 35 § 4, Article 41 § 1 and Article 42 the law in force at the time of the conclusion of contracts subject to the CIV Uniform Rules, the CIM Uniform Rules, the CUV Uniform Rules or the CUI Uniform Rules shall remain applicable to existing contracts.

Article 45
Texts of the Convention

- § 1 The Convention shall be expressed in the English, French and German languages. In case of divergence, the French text shall prevail.
- § 2 On a proposal of one of the States concerned, the Organisation shall publish an official translation of the Convention into other languages, in so far as one of these languages is an official language on the territory of at least two Member States. These translations shall be prepared in cooperation with the competent services of the Member States concerned.