

## **Decision of the 13<sup>th</sup> General Assembly to modify the Convention**

*Articles 2 §1, 6 § 1, 20 § 1 and § 2, 33 § 4 and § 6, 34 §§ 3 to 6, 35 § 4 and § 6 of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) read as follows:*

### **Article 2 is modified as follows:**

1. In § 1, letter a) subpoint 3 to read as follows:  
“3. contract of use of railway infrastructure in international railway traffic;”
2. In § 1, the following letter e) is inserted after letter d):  
“e) laying down requirements concerning the safe operation of trains in international traffic;”
3. In § 1, former letter e) becomes letter f).
4. In § 1, former letter f) becomes letter g) to read as follows:  
“g) developing the systems of uniform law, rules and procedures referred to in letters a) to f) taking account of legal, economic and technical developments.”

### **Article 6 is modified as follows:**

1. In § 1, amend letter e) to read as follows:  
“e) the “Uniform Rules concerning the Contract of Use of Railway Infrastructure in International Railway Traffic (CUI)”, forming Appendix E to the Convention,”
2. In § 1, insert a new letter h) to read as follows:  
“h) the “Uniform Rules concerning the Safe Operation of Trains in International Traffic (EST)”, forming Appendix H to the Convention;”
3. In § 1, former letter h) becomes letter i).

### **Article 20 is modified as follows:**

1. In § 1, amend letter e) to read as follows:  
“e) deal with all other matters which are assigned to it in accordance with the APTU Uniform Rules, the ATMF Uniform Rules and the EST Uniform Rules.”
2. Amend § 2 to read as follows:  
“§ 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 with regard to the Annex concerned. When the Committee is taking decisions about provisions of the Annexes to the EST 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 EST Uniform Rules, shall not have the right to vote with regard to the Annex concerned.”

### **Article 33 is modified as follows:**

1. In § 4, amend letter g) to read as follows:  
“g) the ATMF Uniform Rules except Articles 1, 3 and 9 and the Annexes of these Uniform Rules;”
2. In § 4, the following letter h) is inserted after letter g):  
“h) the EST Uniform Rules except Articles 1 and 9 and the Annexes of these Uniform Rules.”
3. Amend § 6 to read as follows:

“§ 6 The Committee of Technical Experts shall decide on proposals aiming to adopt a new Annex or to modify the existing Annexes to the APTU, ATMF and EST 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 is modified as follows:**

Amend §§ 3 to 6 to read as follows:

- “§ 3 Modifications of the Appendices to the Convention, decided upon by the General Assembly, shall enter into force for all Member States thirty-six months after their notification by the Secretary General 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. The General Assembly may decide, by the majority provided for under Article 14 § 6 for taking decisions about proposals aiming to modify the Convention, to defer the entry into force of modifications.
- § 4 The Member States shall address their notifications concerning the approval of modifications of the Convention itself decided upon by the General Assembly as well as their declarations in terms that they do not approve modifications of the Convention itself or its Appendices, to the Secretary General. The Secretary General shall give notice of them to the other Member States.
- § 5 The period referred to in § 2 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 or withdrawn its declaration 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.”

**Article 35 is modified as follows:**

1. Amend § 4 to read as follows:

“§ 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. In the case of objection to the adoption or modification of an Annex to the EST Uniform Rules, only that Annex 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.”

2. Amend § 6 letter c) to read as follows:

*[Note: the amendment in § 6, letter c) concerns the French provision only]*

3. In § 6, the following letter d) is inserted after letter c):

“d) have made a declaration in accordance with Article 9 § 1 of the EST Uniform Rules.”

## **Decision of the 13th General Assembly to modify Appendix E (CUI)**

*Titel and Article 1 §1 and § 2, 3, 5 § 1, 5bis, 7 § 2, 8 § 1 and § 2, 9 § 1, 10 § 3 of the Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI), Appendix E to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) read as follows:*

### **The title is modified as follows:**

Amend the title to read as follows:

**“Uniform Rules concerning the Contract of Use of Railway Infrastructure in International Railway Traffic”**

### **Article 1 is modified as follows:**

1. Amend § 1 to read as follows:

“§ 1 These Uniform Rules shall apply to any contract of use of railway infrastructure (contract of use) in a Member State in international railway traffic for the purposes of international carriage within the meaning of the CIV Uniform Rules and the CIM Uniform Rules.”

2. The following § 2 is inserted after § 1:

“§ 2 These Uniform Rules shall apply irrespective of the place of business or the nationality of the contracting parties and even when the railway infrastructure is managed or used by States or by governmental institutions or organisations.”

3. Former § 2 becomes § 3.

### **Article 3 is modified as follows:**

1. The following letter aa) is inserted after letter a):

“aa) “international railway traffic” means traffic which requires the use of an international train path or several successive national train paths situated in at least two States and coordinated by the infrastructure managers or the bodies in charge of allocation of train paths that are concerned;”

2. Amend letter b) to read as follows:

“b) “manager” means the person who makes railway infrastructure available and who has responsibilities in accordance with the laws and prescriptions in force in the State in which the railway infrastructure is located;”

3. Amend letter c) to read as follows:

“c) “carrier” means the natural or legal person which carries persons and/or goods by rail in international railway traffic and which is licensed in accordance with the laws and prescriptions relating to licensing and recognition of licenses in force in the State in which the person undertakes this activity;”

4. Amend letter g) to read as follows:

“g) “safety certificate” means the document attesting, in accordance with the laws and prescriptions in force in the State in which the railway infrastructure is located, that so far as concerns the carrier,

- the internal organisation of the undertaking as well as

- the personnel to be employed and the vehicles to be used on the railway infrastructure, meet the requirements imposed in respect of safety in order to ensure a service without danger on that railway infrastructure.”

### **Article 5 is modified as follows:**

Amend § 1 to read as follows:

“§ 1 Relations between the manager and the carrier or any other person entitled to enter into such a contract under the laws and prescriptions in force in the State in which the railway infrastructure is located shall be regulated in a contract of use.”

**Article 5bis is modified as follows:**

Amend §§ 1 and 2 to read as follows:

“§ 1 The provisions of Article 5 as well as those of Articles 6, 7 and 22 shall not affect the obligations which the parties to the contract of use have to meet under the laws and prescriptions in force in the State in which the railway infrastructure is located including, where appropriate, the law of the European Union.

§ 2 The provisions of Articles 8 and 9 shall not affect the obligations which the parties to the contract of use have to meet in an EU Member State or in a State where legislation of the European Union applies as a result of international agreements with the European Union.”

**Article 7 is modified as follows:**

Amend § 2 to read as follows:

“§ 2 The carrier may rescind the contract of use forthwith when the manager loses his right to manage the railway infrastructure.”

**Article 8 is modified as follows:**

1. Amend § 1 to read as follows:

“§ 1 The manager shall be liable  
a) for bodily loss or damage (death, injury or any other physical or mental harm),  
b) for loss of or damage to property (destruction of, or damage to, movable or immovable property), caused to the carrier or to his auxiliaries during the use of the railway infrastructure and having its origin in the railway infrastructure.  
The manager shall also be liable for pecuniary loss resulting from damages payable by the carrier under the CIV Uniform Rules and the CIM Uniform Rules when such loss has its origin in the railway infrastructure while it is being used.

2. Amend § 2 letter a) subpoint 1 to read as follows:

“1. if the incident giving rise to the loss or damage has been caused by circumstances not connected with the management of the railway infrastructure which the manager, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which he was unable to prevent,”

**Article 9 is modified as follows:**

Amend § 1 to read as follows:

“§ 1 The carrier shall be liable  
a) for bodily loss or damage (death, injury or any other physical or mental harm),  
b) for loss of or damage to property (destruction of or damage to movable or immovable property),  
caused to the manager or to his auxiliaries, during the use of the railway infrastructure, by the means of transport used or by the persons or goods carried.”

**Article 10 is modified as follows:**

Amend § 3 to read as follows:

“§ 3 § 1, first sentence, shall apply mutatis mutandis in case of loss or damage referred to in Article 9 if causes attributable to several carriers using the same railway infrastructure contributed to the loss or damage. If it is impossible to assess to what extent the respective causes contributed to the loss or damage, the carriers shall be liable to the manager in equal shares.”

## **Decision of the 13th General Assembly to modify Appendix G (ATMF)**

*Article 1, 3 §§ 1 to 3, 9 § 1 of the Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic (ATMF), Appendix G to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) read as follows:*

### **Article 1 is modified as follows:**

Article 1 is amended to read as follows:

“These Uniform Rules lay down, for vehicles, the procedure for the admission to circulation or use in international traffic.”

### **Article 3 is modified as follows:**

Amend §§ 1 to 3 to read as follows:

- “§ 1 Each vehicle must, for circulation in international traffic, be admitted in accordance with these Uniform Rules.
- § 2 The technical admission shall have the aim of ascertaining whether the vehicles satisfy
  - a) the construction prescriptions contained in the UTP,
  - b) the construction and equipment prescriptions contained in RID,
  - c) the special conditions of an admission under Article 7a.
- § 3 §§ 1 and 2 as well as the following articles shall apply mutatis mutandis to the technical admission of elements of construction.”

### **Article 9 is modified as follows:**

Amend § 1 to read as follows:

- “§ 1 The rail transport undertakings which operate vehicles admitted to circulation in international traffic shall be required to comply with the prescriptions relating to the operation of a vehicle in international traffic, specified in the UTP.”

## **Decision of the 13th General Assembly to add Appendix H (EST)**

*The Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Protocol of 3 June 1999 (Vilnius Protocol) is modified as follows:*

### **A new Appendix H is added as follows:**

#### **„Uniform Rules concerning the Safe Operation of Trains in International Traffic (EST – Appendix H to the Convention)**

##### **Article 1 Scope**

These Uniform Rules lay down requirements concerning the safe operation of trains in international traffic, including safety certification and supervision.

##### **Article 2 Definitions**

For the purposes of these Uniform Rules, their Annexes and the UTP, in addition to the terms defined in Article 2 of ATMF Uniform Rules and Article 2 of APTU Uniform Rules, the term

- a) “area of operation” means the networks located within two or more Contracting States on which a railway undertaking intends to operate;
- b) “Safety Certification Authority” means the national or international entity responsible for issuing Safety Certificates to railway undertakings;
- c) “Certified railway undertaking” means a railway undertaking that holds a Safety Certificate issued by a Safety Certification Authority;
- d) “interoperability” means the ability to perform safe and uninterrupted movement of trains within a rail system and from and to other rail systems, while these trains accomplish the required levels of performance;
- e) “monitoring” means the arrangements put in place by railway undertakings or infrastructure managers to check that their safety management system is correctly applied and effective;
- f) “rail system” means, in each Contracting State, the network consisting of lines, stations, hubs and terminals intended for international rail traffic and all vehicles likely to travel on all or part of the network;
- g) “Safety Certificate” means the evidence that the railway undertaking concerned has established its safety management system and that it is able to operate safely in the area of operation in the State where it is valid;
- h) “safety management system” means the organisation, arrangements and procedures established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations;
- i) “supervision” means the arrangements put in place by the Supervision Authority to oversee safety performance of a railway undertaking after it has received a Safety Certificate;
- j) “Supervision Authority” means the national or international entity responsible for supervising the correct application of the safety management system.

##### **Article 3 Operational and safety requirements**

- § 1 Trains shall be operated in international traffic in accordance with the operational and safety requirements set out in these Uniform Rules.
- § 2 Without prejudice to the responsibilities of Entities in Charge of Maintenance of railway vehicles and of all other actors having a potential impact on the safe operation of the railway system, Contracting States shall ensure that on their territory, responsibility for the safe operation of trains in international traffic and the control of risks associated with it rests with the infrastructure manager(s) concerned and the railway undertaking(s) which operate(s) the train.

§ 3 Contracting States shall require all railway undertakings and infrastructure managers involved in the operation of trains in international traffic on their territory to have implemented a safety management system and to monitor its correct application.

§ 4 Contracting States shall ensure that all binding operational and safety rules are published and made available to railway undertakings and infrastructure managers.

#### **Article 4 Safety Certification Authority**

§ 1 Each Contracting State shall ensure that a Safety Certification Authority is established, whose organisation, legal structure and decision making shall be independent from any railway undertaking and infrastructure manager.

The Safety Certification Authority and the Supervision Authority mentioned in Article 6 § 1 may be two separate entities or they may be incorporated into the same organisation.

§ 2 Each Contracting State shall notify the Secretary General of its Safety Certification Authority in at least one of the Organisation's working languages and shall keep the information up-to-date.

§ 3 The Secretary General shall publish the information referred to under § 2 on the website of the Organisation in the languages of notification.

#### **Article 5 Safety certification of railway undertakings**

§ 1 Contracting States shall only permit the operation of trains in international traffic by railway undertakings whose Safety Certificate is valid on their territory.

§ 2 Safety Certificates for the operation of trains in international traffic shall be issued in accordance with the provisions set out in these Uniform Rules.

§ 3 When issuing Safety Certificates to railway undertakings which already have a Safety Certificate valid in another Contracting State, Safety Certification Authorities shall accept the results of conformity assessments made by the Safety Certification Authority of the other Contracting State.

This acceptance is only mandatory as far as the conformity assessments have been conducted on the basis of equivalent provisions set out in the Annexes to these Uniform Rules or in Uniform Technical Prescriptions.

Safety Certification Authorities shall co-operate to this end.

§ 4 In addition to § 3, Contracting States may conclude agreements which provide for the mutual recognition of Safety Certificates, or parts thereof, issued by the Safety Certification Authority of the other state(s), provided that the assessment criteria according to which the Safety Certificate was issued ensure compliance with the criteria applicable in those states. Such agreements shall be notified to the Secretary General. The Secretary General shall publish this information. Conditions for the mutual recognition of Safety Certificates, or parts thereof, may also be set out in an Annex to these Uniform Rules.

§ 5 Contracting States shall ensure that their Safety Certification Authority publicly registers the railway undertakings whose Safety Certificate is valid on their territory for the operation of trains in international traffic, including their area of operation and validity of each certificate and shall keep this list up-to-date.

§ 6 The Committee of Technical Experts shall be competent to adopt the specifications and practical arrangements for a common database to publish the information specified in § 5.

§ 7 The Committee of Technical Experts shall be competent to adopt recommendations to implement a system of cooperation and peer evaluation of Safety Certification Authorities to support the mutual recognition described in § 4.

#### **Article 6 Supervision**

- § 1 Each Contracting State shall ensure that a Supervision Authority is established, whose organisation, legal structure and decision making shall be independent from any railway undertaking and infrastructure manager.  
The Supervision Authority and the Safety Certification Authority mentioned in Article 4(1) may be two separate entities or they may be incorporated into the same organisation.
- § 2 The correct application of the safety management system of railway undertakings shall be supervised by the Supervision Authority in accordance with these Uniform Rules.
- § 3 Each Contracting State shall notify the Secretary General of its Supervision Authority in at least one of the Organisation's working languages and shall keep the information up-to-date.
- § 4 The Secretary General shall publish the information referred to under § 3 on the website of the Organisation in the languages of notification.
- § 5 The Committee of Technical Experts shall be competent to adopt recommendations to implement a system of cooperation and peer evaluation of Supervision Authorities to support the mutual recognition described in Article 5 § 4.

#### **Article 7**

##### **Safety management and the operation of trains**

- § 1 Railway undertakings shall operate trains in international traffic only within the area of operation specified in their Safety Certificates.
- § 2 Infrastructure managers and railway undertakings involved in the operation of trains in international traffic shall control all safety risks associated with their activities.
- § 3 Infrastructure managers and railway undertakings involved in the operation of trains in international traffic shall cooperate to ensure that trains in international traffic under their responsibility are operated safely.
- § 4 Infrastructure managers and railway undertakings involved in the operation of trains in international traffic shall establish their safety management system and monitor its correct application in accordance with these Uniform Rules.

#### **Article 8**

##### **Annexes and recommendations**

- § 1 The Committee of Technical Experts shall decide whether to adopt an Annex or a provision amending it in accordance with the procedure laid down in Articles 16, 20 and 33 § 6 of the Convention. The decisions shall enter into force in accordance with Article 35 §§ 3 and 4 of the Convention.
- § 2 An application for adoption of an Annex or a provision amending it may be made by:
- a) any Contracting State;
  - b) any regional organisation as defined in Article 2 x) of ATMF Uniform Rules;
  - c) any representative international association for whose members the existence of the Annex is indispensable for reasons of safety and economy in the exercise of their activity.
- § 3 In order to implement the requirements of these Uniform Rules in a harmonised way, the Annexes to these Uniform Rules shall include:
- a) A Common Safety Method for safety management system requirements to be applied by Safety Certification Authorities when issuing Safety Certificates and by railway undertakings and infrastructure managers when developing, implementing, maintaining and improving their safety management systems;
  - b) A Common Safety Method on monitoring to be applied by railway undertakings and infrastructure managers and entities in charge of maintenance;
  - c) The necessary links to the Common Safety Method on risk evaluation and assessment to be applied by the railway undertakings, infrastructure managers and entities in charge



of maintenance when making any technical, operational or organisational change to the railway system;

d) A Common Safety Method on supervision to be applied by Supervision Authorities. The Committee of Technical Experts shall consider the inclusion of harmonised procedures for the issuing of Safety Certificates.

§ 4 The preparation of Annexes shall be the responsibility of the Committee of Technical Experts assisted by appropriate working groups and the Secretary General on the basis of applications made in accordance with § 2.

§ 5 The Committee of Technical Experts may recommend methods and practices relating to the safe operation of trains in international traffic

#### **Article 9 Declarations**

§ 1 Any Contracting State may, within a period of four months from the day of notification of the decision of the Committee of Technical Experts by the Secretary General, make a reasoned declaration notifying him that it will not apply the Annex to these Uniform Rules, so far as it concerns the railway infrastructure or part of it situated on its territory and the traffic on that infrastructure.

§ 2 The Contracting States which have made a declaration in accordance with § 1 shall not be taken into account in determining the number of states which must formulate an objection in accordance with Article 35 § 4 of the Convention, in order that a decision of the Committee of Technical Experts should not enter into force.

§ 3 A State which has made a declaration in accordance with § 1 may withdraw it at any time by notification to the Secretary General. This withdrawal shall take effect on the first day of the second month following the notification.”