Technical and legal interoperability

Secretary General of OTIF François Davenne
Bangkok, 9 December 2015
COTIF – developing uniform law

- Founded in 1893 in Bern
- Applies to international traffic by rail
- Is international law
- Member States can make declarations not to apply selected parts of COTIF

**Legal interoperability**

- Freight / Passenger Contracts
  - Legal interoperability

**Technical interoperability**

- Dangerous Goods Regulation
  - Exchange of dangerous goods wagons
- Technical Regulation
  - Safe exchange of vehicles
Geographical scope of COTIF and its Appendices
## Comparing EU and OTIF regulations

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<th>EU</th>
<th>OTIF</th>
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<td><strong>Objectives</strong></td>
<td>Improve efficiency and market share of rail</td>
<td>Promote, improve and facilitate international traffic</td>
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<td><strong>Scope of regulation</strong></td>
<td>Domestic and international traffic in EU</td>
<td>International traffic between OTIF Member States</td>
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<td><strong>Market model</strong></td>
<td>EU Member States are required to open their rail markets to competition</td>
<td>OTIF does not have requirements imposing a particular market model</td>
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| **Scope of application** | Interoperability and safety, Organisation of railways, Competition regulation, Passengers' rights, Dangerous goods regulation | Interchangeable vehicles, Uniform contract law:  
  • passengers/freight  
  • use of vehicles  
  • use of infrastructure  
  Dangerous goods regulation |
Unified railway law to connect Europe, Asia and Africa:

**Railways as international networks**

**Connected**
- Purely national networks belong to the past
- A regional approach is vital

**Uniform**
- Common technical and contract law
- Common high level rules

**Interoperable**
- Common technical rules
- Common interfaces definition
- Partnership based approach with other organisations

Developing an international interoperability model

Modal shift towards significant Eurasian freight transport by rail

Reducing GHG emissions and foster human development
OTIF partnerships

- **First Level:** International state organisations
  - OSJD, UNECE, ERA, GCC, ESCAP
- **Second Level:** Professional and user associations in the rail sector
  - WCO, ITJ, FIATA
- **Third Level:** Professional and state organisations
  - Member States and/or member cooperation organisations of OTIF
- **Member States**
  - EU

**Member States**

**EU**

**OTIF**

**WCO**

**ITJ**

**FIATA**

**CER/UIC/CIT**

**RailnetEurope**

**UNIFE**

**UIP**

**Dangerous goods industry**

**OTIF**

**OTIF partnerships**

- Member States and/or member cooperation organisations of OTIF
- **Second Level:** Professional and user associations in the rail sector
- **Third Level:** Professional and state organisations
- **First Level:** International state organisations

**Member States**

**EU**

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**Dangerous goods industry**
The legal appendixes

COTIF- Convention concerning international Carriage by Rail + Appendices

Appendix A
CIV
Uniform Rules concerning the Contract of International Carriage of Passengers by Rail

Appendix B
CIM
Uniform Rules concerning the Contract of International Carriage of Goods by Rail

Appendix D
CUV
Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic

Appendix E
CUI
Uniform Rules concerning the Contracts of Use of Infrastructure in International Rail Traffic
Legal interoperability: Legal pyramid

OTIF legal appendixes: uniform rules for Contracts

Legal requirements covered by COTIF: mandatory

Standards contracts defined by sector Organisation (CIT, GCU bureau, …)

Publicly available standard contracts: voluntary

Company contracts / Specific developments (e-booking, etc.)

Agreement between States makes it mandatory to comply with uniform rules

Multilateral agreement between railways undertakings defining General Terms and Conditions to comply with OTIF uniform rules.

Intellectual property of a company. Compliance with GTC and COTIF.
The legal appendixes: a zoom on private keeper contractual framework

- The RU must ascertain that an ECM is assigned to each wagon - ATMF Art. 15
- The RU and ECM must exchange data about operation and maintenance - ATMF Art. 15
- Each vehicle, before it is admitted, must have an ECM assigned to it - ATMF Art. 15
- The RU and the keeper have a contractual relation - CUV
- The ECM is a servant of the keeper on a contractual relationship - CUV and ATMF Art. 15
The Technical appendixes

COTIF- Convention concerning international Carriage by Rail + Appendices

Appendix A
CIV
Uniform Rules concerning the Contract of International Carriage of Passengers by Rail

Appendix B
CIM
Uniform Rules concerning the Contract of International Carriage of Goods by Rail

Appendix C
CIV
Uniform Rules concerning the Contract of International Carriage of Goods by Rail

Appendix D
CUV
Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic

Appendix E
CUI
Uniform Rules concerning the Contracts of Use of Infrastructure in International Rail Traffic

Appendix F
APTU
Uniform Rules concerning the Validation of Technical Standards and Adoption of Uniform Technical Prescriptions applicable to Railway Material

Appendix G
ATMF
Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic

RID
Regulation concerning the International Carriage of Dangerous Goods by Rail

COTIF - Convention concerning international Carriage by Rail

CIV - Uniform Rules concerning the International Carriage of Goods by Rail

CIM - Uniform Rules concerning the International Carriage of Goods by Rail

CUV - Uniform Rules concerning the Contracts of Use of Vehicles in International Rail Traffic

CUI - Uniform Rules concerning the Contracts of Use of Infrastructure in International Rail Traffic

APTU - Uniform Rules concerning the Validation of Technical Standards and Adoption of Uniform Technical Prescriptions applicable to Railway Material

ATMF - Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic

RID - Regulation concerning the International Carriage of Dangerous Goods by Rail

United Nations

European Union

International Union of Railways

International Union of Railways
Technical interoperability: a general framework

- UR (COTIF)
- UTP
- Standards quoted in UTP
- Harmonised standards
- Other standards and specifications
- Company standards and specifications

Increasing level of detail

Agreement between States makes it mandatory to comply with UTP specifications. Independent conformity assessment required.

Contractual agreement between customer and manufacturer whether to comply with these specification and how to assess conformity.

Intellectual property of a company. Compliance checks by internal quality control.
Operational concepts for international rail traffic

**Exchange of vehicles**
- Reconfiguring and preparation of train at border crossing station; other locomotive, other driver, other operational rules.

**Interoperability**
- Train preparation at point of departure
- Uninterrupted train movement across border, without changing train configuration or driver
Develop a working relationship with the European Railway Agency

• ERA is developing safety and interoperability concepts under the control of the EU Member States and the Commission.

• Definition of common priorities:
  – a road map for the transposition of the technical specifications for interoperability;
  – setting up effective working relations;
  – prior involvement of the States parties that are not EU members;
  – cooperation on registers.

=> Involvement of the non Member States of the EU for a uniform technical environment.
Equivalence with EU law

EU

Authorisation for placing in service on the basis of EU-Law

2008/57/EC

COTIF

Admission to operation on the basis of ATMF, APTU

Art. 3a § 2

Art. 6 § 3

Art. 3a § 1
Setting up interoperability: further steps

Level 1
International transport of goods and passengers

Level 2
International exchange of railway vehicles

Level 3
Interoperability of trains in a network of different systems

Level 4
Unified railway Market

Market access
Competition regulation (not in scope COTIF)

Accident investigation /Safety supervision.
Train driver licensing / Operational rules
Definition of separate tasks IM and RU
Safety responsibilities for all actors.
CCS compatibility / Telematic application
Interface train/infrastructure

ATMF, APTU
Train composition requirements.
Accessible national vehicle registers
Vehicle requirements in UTP.
Maintenance: ECM

CUV, RID
Contract of carriage CIM, CIV.
Standard contracts.
Transport of dangerous goods: harmonization with other modes

- UN Recommendations on the Transport of Dangerous Goods (Model Regulations)
- ICAO Technical Instructions
- IMDG Code
- Regulations for the European Land Modes
  - RID
  - ADR
  - ADN
Scope of application OTIF - OSJD – UE
Transport of dangerous goods: an harmonized regime

OTIF  

OSJD

Harmonised provisions of RID and SMGS Annex 2

RID specific requirements (e.g.: 1435 mm gauge)

SMGS Annex 2 specific requirements (e.g.: 1520 mm gauge, extreme climatic conditions, predominance of SMGS, SMPS)

Standards

CEN
ISO
UIC

Standards

UIC
ISO
GOST
CEN
CENELEC
Development of Eurasian uniform transport contract

- **OTIF**
  - **CIM**: Regulatory model contract
  - **CIT**: Detailed provisions developed by the sector

- **UNECE OTIF/OSJD**
  - Regulatory model contract
  - How to develop a contract of carriage/a single consignment note?

- **OSJD**
  - **SMGS**: Regulatory model contract
  - Detailed provisions established through regulations
COTIF – A forum for developing uniform law

Scope of uniform law

OTIF
- High-level principles (COTIF)
- Technical functional requirements (UTP, TSI)
- Model contracts (CIT, ...)
- 1435 Requirements
- Standards
  - CEN
  - ISO
  - UIC

OSJD
- OSJD High-level principles (new convention)
- Technical functional requirements
- Model contracts
- 1520 Requirements
- Standards
  - UIC
  - ISO
  - GOST
COTIF – developing uniform law for interoperable networks

- International binding law
- A bridging concept
- An approach based on partnership
- Railways as networks: connected, uniform and interoperable

Diagram:

- Freight / Passenger Contracts
  - Legal interoperability

- Dangerous Goods Regulation
  - Exchange of dangerous goods wagons
  - Towards full interoperability

- Technical Regulation
  - Technical interoperability
Thank You for your attention