

Protocol of 3 June 1999

for the Modification of the Convention
concerning International Carriage by Rail (COTIF) of 9 May 1980

(Protocol 1999)

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- < **State of the signatures, ratifications, acceptances, approvals, accessions and entry into force**
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In application of Articles 6 and 19 § 2 of the Convention concerning International Carriage by Rail, signed at Berne on 9 May 1980, hereinafter called "COTIF 1980", the fifth General Assembly of the Intergovernmental Organisation for International Carriage by Rail (OTIF) was held at Vilnius from 26 May to 3 June 1999.

- Convinced of the necessity for and usefulness of an intergovernmental organisation which deals so far as possible with all aspects of international carriage by rail at the State level,
- considering that for this purpose, taking account of the application of COTIF 1980 by 39 States in Europe, Asia and Africa as well as by the railway undertakings in those States, OTIF is the most appropriate organisation,
- considering the necessity of developing COTIF 1980, in particular the CIV Uniform Rules and the CIM Uniform Rules, in order to adapt it to the present needs of international carriage by rail,
- considering that safety during the carriage of dangerous goods in international rail traffic demands the transformation of RID into a regime of public law, whose application no longer depends upon the conclusion of a contract of carriage subject to the CIM Uniform Rules,
- considering that the political, economic and juridical changes which have occurred in a large number of Member States since the signing of the Convention on 9 May 1980 should be the motive for establishing and for developing prescriptions which are uniform covering other fields of law which are important for international rail traffic,
- considering that the States should adopt, while taking into account special public interests, more efficacious measures to eliminate the obstacles which persist in the crossing of frontiers in international rail traffic,
- considering that, in the interest of international carriage by rail, it is important to bring up to date the international multilateral conventions and agreements which exist in the railway field and to integrate them, where appropriate, into the Convention,

the General Assembly has decided the following :

Article 1 **New version of the Convention**

COTIF 1980 shall be modified according to the version appearing in the Annex which forms an integral part of this Protocol.

Article 2 **Provisional Depositary**

- § 1 The functions of the Depositary Government, provided for in Articles 22 to 26 of COTIF 1980, shall be performed by OTIF, as Provisional Depositary, from the opening for signature of this Protocol and until the date of its entry into force.
- § 2 The Provisional Depositary shall inform the Member States

- a) of signatures of this Protocol and of the deposit of instruments of ratification, acceptance, approval or accession,
 - b) of the day on which this Protocol enters into force in application of its Article 4,
- and shall perform the other functions of Depositary such as are set forth in Part VII of the Vienna Convention on the Law of Treaties of 23 May 1969.

Article 3

Signature. Ratification. Acceptance. Approval. Accession

- § 1 This Protocol shall remain open for signature by the Member States until 31 December 1999. The signing shall take place at Berne at the office of the Provisional Depositary.
- § 2 In accordance with Article 20 § 1 of COTIF 1980, this Protocol shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited as soon as possible with the Provisional Depositary.
- § 3 The Member States which have not signed this Protocol within the period provided for in § 1, as well as States of which the application to accede to COTIF 1980 is deemed to have been accepted in accordance with its Article 23 § 2, may accede to this Protocol before its entry into force by depositing an instrument of accession with the Provisional Depositary.
- § 4 The accession of a State to COTIF 1980 in accordance with its Article 23, the application to accede having been made during the period between the opening of this Protocol for signature and its entry into force, shall be considered as an accession to COTIF 1980 as well as to the Convention in its new version which appears in the Annex to this Protocol.

Article 4

Entry into force

- § 1 This Protocol shall enter into force on the first day of the third month following that during which the Provisional Depositary will have notified the Member States of the deposit of the instrument by which the conditions of Article 20 § 2 of COTIF 1980 are fulfilled. States which, at the time of the decision of the fifth General Assembly, were Member States and which are still such at the moment when the conditions for entry into force of this Protocol are satisfied, shall be considered as Member States within the meaning of the said Article 20 § 2.
- § 2 However, Article 3 shall be applicable from the opening for signature of this Protocol.

Article 5

Declarations and reservations

Declarations and reservations, provided for in article 42 § 1 of the Convention in the version in the Annex to this Protocol, may be made or lodged at any time, even before the entry into force of this Protocol. They shall take effect at the time of entry into force of this Protocol.

Article 6

Transitional provisions

- § 1 At the latest six months after the entry into force of this Protocol, the Secretary General of OTIF shall convene the General Assembly in order to
- a) designate the members of the Administrative Committee for the next period (Article 14 § 2, letter b) of COTIF in the version in the Annex to this Protocol) and, if appropriate, to take decisions about the end of the mandate of the current Administrative Committee,
 - b) fix, for a period of six years, the maximum amount that the expenditure of the Organisation may reach during each financial period (Article 14 § 2, letter e) of COTIF in the version in the Annex to this Protocol), and
 - c) proceed, if appropriate, to the election of the Secretary General (Article 14 § 2, letter c) of COTIF in the version in the Annex to this Protocol).
- § 2 At the latest three months after the entry into force of this Protocol, the Secretary General of OTIF shall convene the Committee of Technical Experts.
- § 3 After the entry into force of this Protocol, the mandate of the Administrative Committee, determined in accordance with Article 6 § 2, letter b) of COTIF 1980, shall terminate on the date fixed by the General Assembly which must coincide with the beginning of the mandate of the members and deputy members of the Administrative Committee designated by the General Assembly (Article 14 § 2, letter b) of COTIF in the version in the Annex to this Protocol).
- § 4 The mandate of the Director General of the Central Office, in office at the time of entry into force of this Protocol, shall terminate on the expiration of the period for which he has been appointed in accordance with Article 7 § 2, letter d) of COTIF 1980. He shall exercise, from the time of entry into force of this Protocol, the functions of Secretary General.
- § 5 Even after the entry into force of this Protocol, the relevant provisions of Articles 6, 7 and 11 of COTIF 1980 shall remain applicable with regard to
- a) the auditing of the accounts and the approval of the annual accounts of the Organisation,
 - b) the fixing of the definitive contributions of the Member States to the expenses of the Organisation,

- c) the payment of contributions,
- d) the maximum amount that the expenditure of the Organisation may reach during a five-year period, fixed before the entry into force of this Protocol.

Letters a) to c) refer to the year during which this Protocol enters into force as well as to the year which precedes that year.

§ 6 The definitive contributions of the Member States due for the year during which this Protocol enters into force, shall be calculated on the basis of Article 11 § 1 of COTIF 1980.

§ 7 At the request of the Member State whose contribution calculated pursuant to Article 26 of the Convention in the version in the Annex to this Protocol is greater than that for the year 1999, the General Assembly may determine the contribution of that State for the three years which follow the year of entry into force of this Protocol, taking account of the following principles :

- a) the basis for the determination of the transitional contribution shall be the minimum contribution pursuant to Article 26 § 3 above referred to or the contribution due for the year 1999 if this is greater than the minimum contribution;
- b) the contribution shall be adapted progressively in three steps at most to arrive at the amount of the definitive contribution calculated pursuant to Article 26 above referred to.

This provision shall not apply to Member States which owe the minimum contribution which, in any event, shall remain due.

§ 8 Contracts of carriage of passengers or goods in international traffic between Member States, concluded pursuant to the CIV Uniform Rules 1980 or the CIM Uniform Rules 1980, shall remain subject to the Uniform Rules in force at the time of the conclusion of the contracts even after the entry into force of this Protocol.

§ 9 Mandatory provisions of the CUV Uniform Rules and of the CUI Uniform Rules shall apply to contracts concluded before the entry into force of this Protocol one year after its entry into force.

Article 7 **Texts of the Protocol**

§ 1 This Protocol shall be concluded and signed in the English, French and German languages. In the case of divergence, the French text shall prevail.

§ 2 On a proposal by one of the Member States concerned, the Organisation shall publish official translations of this Protocol in other languages, if one of these languages is an official language in the territory of at least two Member States. These translations shall be prepared in cooperation with the competent services of the Member States concerned.

In witness whereof, the undersigned plenipotentiaries duly authorised by their respective

Governments have signed this Protocol.

Done at Vilnius on 3 June 1999, in one original in each of the English, French and German languages; these originals shall remain deposited in the archives of OTIF. Certified copies shall be sent to each of the Member States.

(Followed by the signatures)

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