

**OTIF**



**ORGANISATION INTERGOUVERNEMENTALE POUR  
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN  
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTER-  
NATIONAL CARRIAGE BY RAIL**

**Secrétaire général  
Generalsekretär  
Secretary General**

**A 56-01/502.2010  
27.07.2010**

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**TO THE GOVERNMENTS OF THE MEMBER STATES OF OTIF**

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**Withdrawal of declarations concerning the non-application of Appendices  
E (CUI), F (APTU) and G (ATMF) to the Convention concerning  
International Carriage by Rail (COTIF)**

Par souci d'économie, le présent document a fait l'objet d'un tirage limité. Les délégués sont priés d'apporter leurs exemplaires aux réunions. L'OTIF ne dispose que d'une réserve très restreinte.

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Circular A 55-24/503/2010 dated 25 May 2010 contained notification from the Secretary General, in his capacity as Depositary of the Convention concerning International Carriage by Rail (COTIF), that the amendments to Appendices E (CUI), F (APTU) and G (ATMF) to the Convention adopted by the Revision Committee at its 24<sup>th</sup> session (Berne, 2009) would enter into force on 1 December 2010.

The results achieved by the Revision Committee were approved by all participants at OTIF's 9<sup>th</sup> General Assembly, in particular by representatives of the European Union (EU) Member States, representatives of States which apply EU law on the basis of international agreements with the EU, and representatives of the European Commission.

The main reason for the amendments<sup>1</sup> was to rectify contentious areas of incompatibility between EU law and provisions in the Appendices referred to, which were identified in preparatory working groups, together with the aim of making it possible for the numerous Member States which had made declarations in accordance with the first sentence of Article 42 § 1 of COTIF not to apply these Appendices to withdraw their declarations.

If the declarations are withdrawn and the Appendices are generally applicable, the urgent concerns that have been expressed for many years by branches of the transport industry affected would be allayed.

The effect of the CUI Uniform Rules is that for liability between the operators and users of railway infrastructure, instead of different rules under national law, uniform provisions would apply, particularly in cases where one of the parties (e.g. a rail transport undertaking) has third party liability (customers) regardless of fault and wishes to assert a claim for recourse against the party which caused the loss/damage (e.g. an infrastructure manager).

The general applicability of the APTU and ATMF Uniform Rules and the Uniform Technical Prescriptions which are based on them provides the legal basis for technical approvals of railway material, which can be recognised in all of OTIF's Member States. Agreements on the mutual recognition of approvals can also be concluded on this basis.

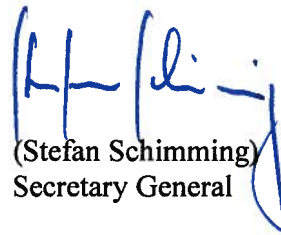
Thus to take advantage of the benefits of the amended Appendices in terms of legal certainty for railway traffic between OTIF Member States applying EU law and other Member States, it would appear necessary that those Member States of OTIF which, because of unresolved points between OTIF and the EU, have made declarations not to apply the Appendices concerned in accordance with the first sentence of Article 42 § 1 of the Convention<sup>2</sup>, should take the measures required at national level in good time so that these declarations are revoked with effect from 1 December 2010.

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<sup>1</sup> See <http://www.otif.org/en/law/revision-committee/notifizierungstexte.html>

<sup>2</sup> Belgium, Bulgaria, Denmark, Germany, Estonia, Finland, Greece, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Austria, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Czech Republic, Hungary and the United Kingdom; see [http://www.otif.org/fileadmin/user\\_upload/otif\\_verlinkte\\_files/07\\_veroeff/02\\_COTIF\\_99/web\\_COTIF99\\_20\\_01\\_2010e\\_Erklarungen\\_und\\_Vorbehalte.pdf](http://www.otif.org/fileadmin/user_upload/otif_verlinkte_files/07_veroeff/02_COTIF_99/web_COTIF99_20_01_2010e_Erklarungen_und_Vorbehalte.pdf)

The Member States concerned are kindly requested to inform the Secretary General in good time of the steps taken to this effect.

  
(Stefan Schimming)  
Secretary General

**cc:**

European Commission  
Directorate-General for Mobility and Transport (DG MOVE)  
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