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ANNEX 1

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to the proposal of the

Council Decision

**establishing the position to be adopted by the Union at the 25th session of the OTIF
Revision Committee as regards certain amendments to the Convention concerning
International Carriage by Rail (COTIF) and to its Appendices**

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1. INTRODUCTION

OTIF Secretariat General (SG) has convened the 25th session of the Revision Committee (RC) of COTIF 99 in Berne on 25-27 June 2014.

The objective of this working document is to develop the EU coordinated position to be presented at the RC meeting. The document was prepared by DG MOVE with the help of other Commission services involved (TAXUD, SANCO, SJ, SG).

2. REFERENCED DOCUMENTS

Documents concerning the agenda items were circulated to OTIF Member States on 25 April 2014 and are available on the website of OTIF at the following link: <http://otif.org/en/law/revision-committee/working-documents.html>.

3. COMMENTS ON EACH AGENDA ITEM

ITEM 1. OPENING THE MEETING AND ESTABLISHING THE QUORUM

Document: none.

Competence: shared.

Exercising voting rights: not applicable.

Recommended coordinated position: none.

There shall be a quorum in the Revision Committee when the majority of the Member States enjoying the right to vote are represented there at the time of the vote. However, one has to take into account Article 13 § 3 of the Convention that provides that Member States having made a declaration concerning the non-application of one or more Appendices do not have the right to vote concerning amendments to the given Appendix.

The following Member States have not withdrawn their declarations on the non-application of certain Appendices:

Pakistan, Russia (concerning CIV, RID, CUV, CUI, APTU and ATMF), Georgia (concerning CUV, CUI, APTU and ATMF), the Czech Republic, Norway, Slovakia, the United Kingdom (concerning CUI, APTU and ATMF), France (concerning ATMF).

When discussing amendments to the relevant Appendices, the number of Member States having made a declaration on the non-application of the Appendix in question has to be deducted from the number of active members of OTIF (46) to establish the quorum concerning the vote on the Appendix in question.

In case of EU competence, the EU may vote for all of its members having the right to vote, without regard to the physical presence of those members at the vote; thus, the quorum may be different in case of the EU representing its Member States and in case of EU Member States voting for themselves.

ITEM 2. ELECTION OF CHAIR AND VICE CHAIR

Document: none.

Competence: shared.

Exercising voting rights: MS.

Recommended coordinated position: none.

ITEM 3. ADOPTION OF THE AGENDA

Document: CR 25/3.

Competence: shared.

Exercising voting rights: MS.

Recommended coordinated position: none.

ITEM 4. PARTIAL REVISION OF COTIF – BASIC CONVENTION

Documents: CR 25/4, CR 25/4 Add. 1.

Competence: shared.

Exercising voting rights: MS.

Recommended coordinated position:

Amendments for Article 3 (International cooperation) to be supported (editorial change to replace the reference to the "European Communities" with a reference to the "European Union).

Amendments for Article 12 (Execution of judgements. Attachment) to be supported as it amends the definition of "keeper" in line with EU law.

Amendments for Article 20 (Committee of Technical Experts) to be supported as they are necessary to update the Uniform Rules APTU and ATMF in order to keep them in line with EU law.

Other amendments: no EU position necessary as these amendments relate to financing of the organisation, auditing or include administrative changes regarding the work programme, the annual report and the lists of lines or services which have no impact on EU law.

ITEM 5. PARTIAL REVISION OF APPENDIX B (CIM UR)

Documents: CR 25/5, CR 25/5 Add. 1, CR 25/5 Add. 2, CR 25/5.1.

Competence: shared.

Exercising voting rights: EU for Articles 6 and 6a; MS for other Articles.

Recommended coordinated position:

Amendments to Article 6 and new Article 6a concern EU law because of the use of the consignment note and its accompanying documents for customs and sanitary and phytosanitary (SPS) procedures. The EU agrees with the intention of OTIF to give priority to the electronic form of consignment notes. However, at present the adoption of these amendments may lead to unintended consequences. The current simplified procedure for customs transit by rail is only possible with paper documents. Therefore, if railways opt for

the electronic consignment note, they will have to use the standard transit procedure and the New Computerised Transit System (NCTS). The Commission has started preparations for a working group to discuss the use of electronic transport documents for transit under the Union Customs Code. This working group will have its kick-off meeting on 4-5 June 2014. The EU agrees also with the intention to provide the accompanying documents in electronic format. However, in the current EU law there is no legal basis to provide the documents (e.g. Common Veterinary Entry Document, Common Entry Document) which have to accompany SPS related goods in electronic format and therefore they need to be provided in paper. The Commission has prepared a draft Regulation, which will cater for electronic certification and the draft is currently under discussion in Council and Parliament. That Regulation (Official Control Regulation) is envisaged to be adopted by end of 2015/beginning of 2016, however, there will be a transitional period for the enforcement.

Therefore, the EU suggests that no decision is taken on these items at the present RC and that OTIF continue cooperation with the EU on this issue in order to have a well-prepared solution for an upcoming revision of CIM which should ideally be synchronised with the new UCC and its implementing provisions which are to be in force on 1 May 2016. Certain electronic procedures may be phased in between 2016 and 2020 in accordance with Article 278 of the UCC.

Other amendments: no EU position necessary as these provisions do not interfere with EU law.

ITEM 6 ELECTRONIC DOCUMENTS CONCERNING THE CARRIAGE OF DANGEROUS GOODS – INFORMATION ON THE WORK OF THE RID COMMITTEE OF EXPERTS

Document: CR 25/6.

Competence: EU.

Exercising voting rights: not applicable.

Recommended coordinated position: to take note of the information.

ITEM 7. PARTIAL REVISION OF APPENDIX D (CUV UR)

Documents: CR 25/7, CR 25/7 Add. 1, CR 25/7 Add. 2.

Competence: shared.

Exercising voting rights: EU.

Recommended EU position: amendments to Articles 2 and 9 to be supported as they clarify the roles of the keeper and of the entity in charge of maintenance in line with EU law. However, the proposed amendment to Article 7 submitted by France concerning the liability of the person who has provided the vehicle for use as a means of transport in case of damage resulting from a defect of the vehicle needs further analysis as its possible impact on other COTIF instruments, which may have also an effect on EU legislation, could not have been assessed in sufficient detail. The Commission also believes that EU Member States' proposals that may have an impact on EU law should be discussed within the EU before being submitted to OTIF. Therefore, the EU is not in a position to support this amendment proposal at this Revision Committee.

ITEM 8. REVISION OF APPENDIX G (ATMF UR)

Documents: CR 25/8, CR 25/8 Add. 1, CR 25/8 Add. 2.

Competence: EU.

Exercising voting rights: EU.

Recommended coordinated position: see Working Document for COTIF-CTE7. The position will have to be updated taking into account the results of the CTE meeting to be held in 4-5 June 2014.

ITEM 9. PARTIAL REVISION OF APPENDIX F (APTU UR)

Documents: Ref.: CR 25/9, CR 25/9 Add. 1.

Competence: EU.

Exercising voting rights: EU.

Recommended coordinated position: editorial amendments to be supported.

ITEM 10. MANDATE FOR THE CONSOLIDATION OF THE EXPLANATORY REPORT

Document: CR 25/10.

Competence: shared.

Exercising voting rights: MS.

Recommended EU position: to be supported.

ITEM 11. EDITORIAL AMENDMENTS

Document: CR 25/11.

Competence: shared.

Exercising voting rights: EU.

Recommended coordinated position: to be supported.

ITEM 12. PARTIAL REVISION OF APPENDIX E (CUI UR)

Document: CR 25/12.

Competence: EU.

Exercising voting rights: EU.

Recommended coordinated position: amendments to be rejected. These amendments suggested by CIT include the extension of the scope of CUI to domestic operations, the introduction of contractually binding General Terms and Conditions and the extension of the infrastructure manager's liability for damage. They may deserve further consideration but as they have not been discussed in any internal forum of OTIF before the Revision Committee, their impact could not have been assessed in sufficient detail. It seems to be immature to amend CUI (that is at present in line with EU law) at this RC without proper preparation.

ITEM 13. RULES OF PROCEDURE FOR THE WORKING GROUPS OF THE REVISION COMMITTEE CONCERNING APPENDICES A, B, D AND E

Document: CR 25/13.

Competence: shared.

Exercising voting rights: EU.

Recommended coordinated position: to be supported.

ITEM 14. INFORMATION ON FUTURE WORK.

Document: CR 25/14 (not available yet).

Competence: shared.

Exercising voting rights: not applicable.

Recommended coordinated position: tbd on the spot.