

SESSION 3

Evolution of international railway market: challenges and objectives for contractual law and organisation of efficient international traffic



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Challenges and objectives for contractual law and organisation of efficient international traffic

The President of UIRR, Ralf-Charley Schultze, moderated this panel with the participation of Cesare Brand, General Secretary of the International Rail Transport Committee (CIT), Péter Rónai, Vice-Chairman of RailNet Europe (RNE) and Peter Jäggy, Secretary General *ad interim* of Forum Train Europe (FTE).

CIT, RNE and FTE are working closely together. All three are voices of the sector.

The objectives of CIT are mainly the implementation of COTIF and European law that has an impact on transport law, the standardisation of the contractual relationship between carriers and between carriers and their customers for passenger and freight traffic and representation of its members' interests vis-à-vis the authorities and other organisations. Market opening in rail transport started in the early 1990s. Since then, three major trends have been identified: digitalisation, increasing competition and door-to-door traffic.

The aim of RNE, the umbrella organisation for Infrastructure Managers and allocation bodies, is to help facilitate international rail business. It delivers tools and solutions for international infrastructure management and provides information on the European Railway Infrastructure. RNE follows a market-oriented approach and designs the entire rail infrastructure production process. In addition, RNE acts as a coordination platform for the development of common procedures, documents and IT tools across all 11 Rail Freight Corridors.

Some examples of international rules are:

- the Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI), which are international law and an appendix to COTIF applicable to any contract of use of railway infrastructure in international railway traffic
- the European general terms and conditions for the use of infrastructure (EGTC-I), a set of basic contractual conditions for use of railway infrastructure, which RNE and CIT recommend applying to all contracts of use of railway infrastructure for international or international and domestic transport by rail and use of services in service facilities operated under an IM's control
- the Standard contract of use of infrastructure (SCU-I) which should be a contract template serving as toolbox for IMs and RUs.

CIT suggests alignment with existing texts, in particular EGTC-I, and application to international and domestic transport.

FTE is the European coordination platform of railway undertakings for cross-border passenger and freight trains. Its main tasks are the harmonisation of production plans and path requests and the harmonisation of international processes and IT systems. The most important projects are the redesign of the international time table process (TTR) and the technical specifications for freight and passengers (TAF/TAP-TSI). Optimising international trains is a very intensive and iterative process. Railway undertakings cannot do it on their own; they need

infrastructure managers, but also the customers to support their work.

UIRR is the industry association for combined transport in Europe. The International Union for Road-Rail Combined Transport represents the interests of European road-rail combined transport operators (customers of the RUs) and transshipment terminal managers. Its aggregated transport performance represents more than half of European combined transport, including port hinterland, continental and intercontinental relations, while including both rolling motorway and unaccompanied transport services. The Association's activities focus on three areas of interest: (i) the quality performance of rail freight, (ii) a fair, mode-neutral regulatory framework, and (iii) the enhancement of intermodal transport. In this context, UIRR promotes combined transport and contributes to the development of its best practice and standardisation. It also administers essential components of digital systems that aid daily operations, including the issuance of the ILU Code identifier for non-ISO loading units.

In the multimodal logistics chain, a lot of stakeholders are involved. The positions of the key stakeholders on the need for further harmonisation are not always aligned, but simplification of the contractual framework through harmonisation seems key to improving the competitiveness of rail transport.

OTIF LAW MAKES RAILWAY TRANSPORT EASIER

The issue is to make railway transport easier and to eliminate the complexity of rail transport. In order to improve the development of railway transport, the sector has some requirements and expectations.

COTIF is a proven and high-quality framework for rail transport contracts and the development of common

procedures. The modern, forward looking legal framework should be further developed and adapted to some new needs and challenges.

COTIF has been the backbone of rail freight transport in the greater European railway area, providing rules that were vital to conducting cross-border traffic in times when the continent was divided. The European Union's eastward extension to the former socialist countries and the incorporation of COTIF into EU law has meant that the initiative in terms of developing legislation for rail transport has mainly passed to the EU.

Political developments in nearly all regions neighbouring the EU – from North Africa through the Middle East to Ukraine and Russia in the East – have resulted in the deterioration of relations, and occasionally even in wars that have negatively affected trade relations. The consequences were quite negative from the perspective of rail freight.

Intercontinental rail transport along the "Silk Road" connecting China to Europe has been the exception in this regard. Substantial railway investments in both China and Russia have fueled promising developments in rail freight traffic. Today, the main obstacles to further rapid development are less infrastructural than political, the heterogeneity of customs and

railway rules, the underlying law and the differences in the facilitating IT systems.

Should peace prevail on the wider, interconnected Eurasian-North African landmass, and the development of trade be unobstructed, the need for more efficient and smoothly running rail freight is certain. OTIF, as the custodian of the railway law that governs this activity, should use the time to intensify its activities to update international railway law.

The rules enshrined in COTIF and its appendices are critically important to creating a functioning Eurasian-North African railway area. In some instances, the rules need updating or more details; in others, they need to be slightly broadened – to include terminal rules for instance – in order to be used as a blueprint to develop operational processes and the underlying IT systems, as well as the architecture for the data flows that need to accompany rail freight in the 21st century.

THE FUTURE OF MULTIMODAL TRANSPORT

The Commission's multimodal year 2018 showed that intermodal transport is the engine of growth of railways. While the rail mode itself is stagnating and interoperability has not yet been fully implemented in the EU, the volume of intermodal traffic has doubled in less than 18 years.

Thanks to the techniques of intermodal transport, rail freight is rapidly becoming capable of offering competitive solutions for logistics and of delivering the right conditions to transport diverse cargo, either palletised or otherwise grouped into smaller units. As trade is becoming more centred on the just-in-time delivery of these

smaller quantities, the intermodal technique widely used in maritime shipping is becoming dominant in rail freight as well.

This trend, observed throughout the European Union, is certainly not stopping at its borders, but it is extending beyond them.

These facts have a direct impact on the regulations. International rail freight law must therefore extend to the particular features of intermodal transport to include its specific transshipment and technical, safety, liability and administrative aspects.

THE RELATIONSHIP BETWEEN DOMESTIC, REGIONAL AND GLOBAL RAILWAY POLICY AND REGULATIONS MUST BE ARRANGED IN A NEW WAY

International law goes beyond international transport; it is also harmonising and modernising national law. Just as COTIF became the backbone of European railway law, so should its updated, 21st century version be made suitable to support the daily operation of freight trains throughout the entire Eurasian-North African land mass. OTIF should develop the rules and then facilitate recognition of the Convention and its appendices as the backbone of railway law in every country within this area that is connected by railway infrastructure.

Ralf-Charley Schultze