EU transport law and the railway protocol

Secretary General of OTIF - François Davenne
Oxford, September 2016
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
- Accession of EU in 2011: a bridging role

**Freight / Passenger Contracts**

**Legal interoperability**

**Dangerous Goods Regulation**

**Exchange of dangerous goods wagons**

**Technical Regulation**

**Safe exchange of vehicles**

**Technical interoperability**
EU – OTIF – OSJD: building bridges
Geographical scope of COTIF: a process of consolidation since 2013
Unified railway law to connect Europe, Asia and Africa:

**European Union:**
- Technical rules for interoperability and safety
- Internal regulation of transport contracts
- Implementation of liberal regulations for the rail market

**OTIF:**
Regulations on international rail transport
- Technical rules for interoperability/dangerous goods
- Regulation of transport contracts
- No prerequisite for regulating the rail market

**OSJD:**
- Technical rules for interoperability and safety
- Internal regulation of conditions of transport
- Administrative regulation of the rail market
## EU and OTIF regulations: complementary regulations

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

Current situation

Incompatible national networks: burden of complexity without efficiency gain

No common grounds for standard contracts

Interoperability concept limited to EU

Rail does not benefit from its natural competitive advantages in international traffic

Target situation

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
- Definition of common interfaces
- Partnership based approach with other organisations
Setting up interoperability beyond the EU

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 of COTIF)

Accident investigation/safety supervision.
Train driver licensing/operational rules
Definition of separate tasks IM and RU
Safety responsibilities for all actors.
CCS compatibility/telematics applications
Train/infrastructure interface

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

CUV, RID
CIM, CIV contract of carriage
Standard contracts
## Gaps in international uniform rules: a larger picture

<table>
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<th>What is missing</th>
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<td>Single contracts for Euro-Asian backbone</td>
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<td>A common understanding of interoperability, possibly backed by law</td>
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<td>Security for investors</td>
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<td>Rolling stock fleet management tools</td>
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<th>What should be questioned</th>
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<tr>
<td>Market opening as international rule?</td>
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<tr>
<td>Abolishing regional regulation or developing legal and technical interfaces?</td>
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<tr>
<td>Who should determine the operational rules?</td>
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<tr>
<td>Path to multimodality: legal interoperability or single regulation?</td>
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How EU accession to rail protocol can help
Movement towards a single transport contract for freight
How international law covers Euro-Asian traffic

• The unified railway law (EURL) developed under the aegis of UNECE provides an interface law between CIM and SMGS

• Single contract would improve Euro-Asian rail traffic; Commission follows these discussions closely
Equivalence with EU law: a central concern for freight wagons

**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

ATMF, APTU
Rail protocol and rail regulation: creating a virtuous circle

Growing investments to connect Europe with Asia

Private financing as incentive to an uniform rail regulation.

Regional development driven by new infrastructure.

Development of private financing through securitisation.
Thank you for your attention