



Organisation intergouvernementale pour les transports internationaux ferroviaires  
Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr  
Intergovernmental Organisation for International Carriage by Rail

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**Commission de révision  
Revisionsausschuss  
Revision Committee**

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## **26<sup>TH</sup> SESSION**

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### **Information from the 10<sup>th</sup> Committee of Technical Experts concerning:**

- Proposed modification of Appendix F to COTIF (APTU)
- Proposed modification of Appendix G to COTIF (ATMF)
- A draft new Appendix H to COTIF

We are writing to you in our capacity as chairman and secretary of the Committee of Technical Experts to inform you about the discussions and conclusions of this Committee.

The Committee of Technical Experts (CTE) held its 10<sup>th</sup> session in Bern on Tuesday 13 June and Wednesday 14 June 2017. It discussed the modification of Appendix F to COTIF (APTU), the modification of Appendix G to COTIF (ATMF) and the development of a new Appendix H to COTIF.

The CTE does not have decision-making competence for these subjects, but can use its expertise to advise the Revision Committee of its opinion. The purpose of this letter is to inform the 26<sup>th</sup> Revision Committee of the CTE's views.

The detailed report of the CTE's discussions on these subjects is attached to this letter. Below is a summary.

### **Modifications to Appendix F to COTIF (APTU) and Appendix G to COTIF (ATMF)**

It is important for international traffic that the provisions applicable in the EU and COTIF are harmonised. With the adoption of the fourth railway package, the EU changed several provisions and informed the CTE and its standing working group (WG TECH) about these changes. On the basis of an analysis by the European Commission, the Secretariat and the WG TECH prepared modifications to APTU and ATMF to ensure continued harmonisation with EU law.

The modifications are necessary in order to harmonise some terminology with the new EU provisions and to take into account some procedural changes in the EU, in particular the fact that the EU Agency for Railways would be competent to issue vehicle authorisations. The basic concepts of APTU and ATMF are not the subject of the proposed changes.

The CTE discussed and fully endorsed the proposals for the modification of both APTU and ATMF, including the justification for the proposals, as submitted for the attention of the Revision Committee.

### **Draft new Appendix H to COTIF**

At the General Assembly of 2015, the Secretary General launched the idea of establishing a legal basis in COTIF to support interoperability beyond the EU. The draft new Appendix H prepared by the OTIF Secretariat and subsequently discussed by the CTE sets out provisions to regulate the safe operation of trains in international traffic. This new appendix is an important element in terms of achieving interoperability.

- Interoperability in the context of COTIF is the ability of different national rail systems to allow the safe and uninterrupted movement of trains which attain the required levels of performance.
- Interoperability therefore implies the cross-border operation of complete trains, meaning that the infrastructure would be used by different railway undertakings, both national and from other countries.
- Interoperability has the potential to make railways much more efficient, but also requires additional harmonisation of, for example, operational rules, safety responsibilities and the licensing of railway undertakings.

The concept of the draft new appendix is that state authorities would issue Safety Certificates for railway undertakings based on harmonised criteria, as proof that the railway undertakings are able to operate trains safely in the state concerned.

The CTE discussed several aspects of the draft proposal in detail and expressed its support for the new appendix. As a result of the discussions the draft new appendix was modified to:

- Clarify that a Safety Certificate would provide evidence that a railway undertaking has established its safety management system and that it is able to operate safely, within the intended area of operation, in the state in which the certificate is valid;
- Clarify that although the railway undertaking and the infrastructure manager must control the risks associated with the operation of trains in international traffic, this should be done without prejudice to other entities having a potential impact on the safety of the railway system;
- Ensure that Certification Authorities will accept the results of assessments made by authorities from other states, provided they are based on equivalent procedures and provisions;
- Ensure that the annexes to the new appendix, which will be developed as a second step, will include in particular the elements of the safety management system and the Common Safety Methods on conformity assessment, monitoring and supervision.

In order to implement the new appendix efficiently, it would be essential to develop annexes to the appendix quickly. The CTE discussed whether binding deadlines for finalising these annexes could be fixed. The discussion revealed that deadlines could not be binding, as no responsibility can be attached to meeting such deadlines and nothing would happen if the deadlines were not met. The CTE would instead suggest that the General Assembly should use its ability to make recommendations to request CTE to develop these annexes before a certain deadline. This recommendation would give a strong signal and could be used to encourage speedy development of the annexes.

The version of the draft new Appendix H submitted to the Revision Committee for discussion was drafted by the OTIF Secretariat in accordance with the instructions of the CTE.

We should be grateful if the Revision Committee would take the information in this letter into account when deciding about the adoption of the modifications to Appendix F to COTIF (APTU) and Appendix G to COTIF (ATMF) and the discussion concerning the new Appendix H to COTIF.

On behalf of the Committee of Technical Experts,

Yours faithfully,

*[signed]*

Roland Bacher

Chairman

*[signed]*

Bas Leermakers

Secretary

Annex:

Excerpt of the report of the 10<sup>th</sup> session of the Committee of Technical Experts.

## Annex

### 6.1 Interoperability beyond the EU: draft new Appendix H concerning the safe operation of trains in international traffic

**Document:** [TECH-17001](#)

The **Secretariat** had prepared a draft new appendix to COTIF for discussion at CTE 10 in document TECH 17001 - CTE10 – 6.1. The document included a general introduction to the subject, draft legal proposals and explanations. The draft new Appendix H set out provisions which would regulate and enable the safe operation of trains in international traffic.

The cross-border operation of complete train can potentially make railways much more efficient, but would also require additional harmonisation of, for example, operational rules, safety responsibilities and the licensing of railway undertakings etc. The new Appendix H was intended to be applied by states which already apply APTU and ATMF, which contain provisions concerning rolling stock that is used to form a train to cross a border. One benefit of creating a new appendix, as opposed to extending the scope of ATMF for example, is that states that declare that they will not apply the new appendix may continue to apply ATMF.

The Secretariat then explained the concept behind the draft new appendix, according to which state authorities would issue Safety Certificates for RUs on the basis of harmonised criteria, as proof that an RU is able to operate trains safely in the state concerned. States could also mutually recognise the results of assessments made by other authorities before issuing safety certificates. The concept behind the new appendix was that each state would be responsible for issuing safety certificates for its territory and for supervising the Safety Management System (SMS) of RUs for which they have issued Safety Certificates. All RUs should develop their SMS based on Common Safety Methods (CSM). With regard to infrastructure managers (IM), it was proposed that they should also develop their SMS, but the certification and supervision of IMs should not be subject to COTIF's Uniform Rules, as competence for these matters was at national level.

Lastly, the Secretariat reminded the meeting of the planning and next steps, which would include discussion of the subject by the Revision Committee at the end of February 2018 and a decision by the General Assembly by the end of September 2018. The draft Appendix H would have to be available in OTIF's three working languages by the deadline for documents for the Revision Committee. As a result of the time needed for translations, the draft would have to be ready by the end of July, which was before the next meeting of WG TECH.

The **Chairman** thanked the Secretariat for the introduction and reminded the meeting that the concept of interoperability within the meaning of COTIF had first been presented to the 12<sup>th</sup> General Assembly in 2015. Subsequently, in 2016, the Secretariat had presented its views to CTE 9, which supported the proposed line of action. CTE 9 had asked TECH to develop this idea further. The Chairman also reminded the meeting that the CTE did not have any decision-making competence with regard to this subject, but owing to its expertise, could provide the Revision Committee with its opinion. Once it had discussed the matter, the Revision Committee could then advise the 13<sup>th</sup> General Assembly. The General Assembly was the competent decision-making organ. In order to orient the discussion, the Chairman noted that Appendix H only deals with technical and operational requirements and not access to the network. The latter could be dealt with at a later stage and be discussed at CTE if it fell within the competence of CTE.

The **Chairman** listed all the comments that participants had on Appendix H and then opened the discussion.

### **Mutual recognition of assessment results (Article 5 § 3)**

Following the discussion at WG TECH, the **Secretariat** informed the meeting that it had included in Article 5 § 3 the three options concerning the mutual recognition of assessment results:

1. "... shall take into account the results of",
2. "... are permitted to use the results of", or
3. "... shall accept the results of".

**CH** (Christophe Le Borgne) supported the OTIF Secretariat's initiative and welcomed the draft Appendix H. With regard to the proposed options, CH supported an option which would avoid duplicating assessments that had already been carried out, i.e. option three.

**The representative of the EU** (Patrizio Grillo) explained that the European Union fully supported the initiative to harmonise the OTIF framework with the principles of the EU Safety Directive, i.e. to introduce the SMS and CSM principles. However on this specific issue he was expressing a position of the European Commission. He thought the results of the developments would help RUs to develop new services, rather than having to rely on cooperation agreements. In his view the third option was the most logical. However, acceptance of the results should depend on some additional conditions, e.g. whether the CSM on Conformity Assessment had been applied, which did not yet exist in COTIF.

**RS** supported the third option, but was of the view that only the SMS of the RUs and IMs in general should be certified, and then, as a next step, mutual recognition of these Safety Certificates should be introduced. The precondition for mutual recognition should be the existence of a specific annex setting out a clear procedure and rules for the assessment. All certification authorities would then apply the same process.

**DE** supported the third proposal and in addition to what the EC had said, proposed that the Certification Authority which carried out the assessment of the SMS should be in a position to confirm that the assessment had been performed in accordance with the CSM, so that other Certification Authorities had a legal basis for not repeating the assessment. This was only possible if the requirements subject to assessments were identical or equivalent. In addition to the harmonised requirements of the SMS, the harmonisation of operational requirements could be also taken into account in the form of an UTP OPE.

The **Secretariat** clarified that the draft Appendix H was based on one safety certificate per RU per state and not on a national part A and an international part B. Each state would issue one certificate per RU, taking into account where possible the results of assessments made in other states. It agreed with DE and RS that the results from previous assessments could be recognised by other Certification Authorities only if performed in accordance with the harmonised provisions. With regard to the transposition of the TSI OPE into COTIF, the legal basis already existed in APTU.

**CER** was of the view that there should be two sets of requirements: common requirements applicable everywhere and additional specific requirements for each state.

The Secretariat summarised why it had drafted Article 5 § 3 as it did: the Safety Certificate included all the elements required by a state as evidence that an RU could operate trains safely. Some of the elements could not yet be harmonised because of specific operational rules (different signalling, for example). As a result, it was not possible to harmonise all the

requirements, so the mutual recognition of Safety Certificates as a whole would also not be possible. This justified the concept proposed by the OTIF Secretariat whereby only the results of the assessment would be mutually accepted, not the Safety Certificates. As a result of the discussion, the Article should be adapted to make clear that only the assessment results which are based on equivalent requirements can be mutually accepted.

**The representative of the EU** (Patrizio Grillo) proposed that the CTE should mandate the OTIF Secretariat to revise the text slightly, so that mutual acceptance of the assessment results would be mandatory, but only insofar as identical requirements are concerned. The state-specific elements which are not covered by identical requirements should be assessed on a state by state basis.

### **Editorial amendments to Article 5 § 1**

The representative of the EU (Patrizio Grillo) proposed that Article 5 § 1 be amended as follows:

EN version

“Contracting States shall only permit the operation of trains in international ~~their territory~~ traffic by Railway Undertakings whose safety certificate is valid on their territory”.

FR version

“Les États parties n’autorisent l’exploitation de trains en trafic international ~~leur territoire~~ que par des entreprises ferroviaires dont le certificat de sécurité est valide sur ~~ce leur~~ territoire.”

DE version

“Die Vertragsstaaten lassen ~~auf ihrem Hoheitsgebiet~~ nur **den Betrieb von Zügen** von Eisenbahnunternehmen ~~zum im~~ internationalen **Betrieb Verkehr** zu, **die über eine gültige deren** Sicherheitsbescheinigung auf ihrem Staatsgebiet ~~gültig ist verfügen.~~”

**A.** The **Chairman** summarised the discussion so far and concluded that:

1. The CTE discussed Article 5 § 3 and supported the mandatory mutual recognition of the assessment results, provided the assessments were based on equivalent provisions;
2. The CTE mandated the OTIF Secretariat to align the text of Article 5 § 3 with the discussion, in particular to say that Certification Authorities must accept the results of assessments made by the Certification Authorities of other states insofar as identical requirements are concerned;
3. The CTE agreed to amend Article 5 § 1 in all three language versions, as proposed by the EU.

### **Certification of infrastructure managers (Article 5)**

**RS** wondered whether the safety certification of IMs (referred to as “authorisation” in the EU) should also be prescribed, as for RUs in Article 5, bearing in mind that Article 3 § 3 already prescribes that both the RU and IM are required to establish their SMS.

The **Secretariat** confirmed that according to the draft, each RU and IM should have an SMS. It reminded the meeting that COTIF only concerns international traffic. In an interoperable system, RUs would operate in multiple states and a formal certification process should therefore confirm on a state by state basis that the RU is able to operate safely in each state. IMs, on the contrary, generally had their area of operation in one state and their operational activities did not cross borders. Moreover, IMs generally dedicated only a small portion of their activities to international traffic and most of their activities concerned national traffic. It was therefore of the view that each state should decide how it ensured that its IM acted in compliance with COTIF provisions. The Secretariat saw a parallel with Article 8 of ATMF, which states that the railway infrastructure must comply with the provisions contained in UTPs, but that admission and supervision are subject to the regulations in force in each OTIF MS concerned. So the principle concerning infrastructure or its management was that COTIF could describe the objective (e.g. infrastructure must comply with the UTP, or the IM must have an SMS), but it was up to individual states to decide how to implement this objective. When preparing Appendix H, the OTIF Secretariat had followed this principle. Nevertheless, Article 8 § 5 of Appendix H made it possible for the CTE to issue recommendations and best practices. It was proposed that provisions concerning certification and monitoring of IMs could be made in such a form.

The **representative of the EU** (Patrizio Grillo) agreed with RS to the extent that he also saw a certain logic in harmonising the certification of IMs. In his view, it was not sufficient to certify only the SMS of the RUs, as there was an interface between the vehicle and infrastructure, so an RU which entered the territory of another state would also like to be assured that the infrastructure is well maintained and managed. The certified SMS of the IM would give RUs (*with the certified SMS*) confidence that the infrastructure it runs its trains on is in a good state. If Appendix H was not to prescribe how the SMS should be certified, it could be left to the MS to carry out the certification process in accordance with their national rules.

**DE** suggested differentiating the technical and legal points of view. From the technical point of view, DE agreed with RS and EC. At present, in the EU there was a system which obliges the RU and IM to have a certified SMS, as the RU and IM have an interface with each other. However, from the (international) legal point of view, DE agreed with the Secretariat, i.e. that COTIF only deals with international traffic, while most of the IM’s activities concern national traffic. He pointed out that RUs need to be assured that an IM would be able to organise its operations in such a way that several RUs could operate on its network internationally. This would require IMs to have an SMS, which must be confirmed by an independent authority, so that other RUs could use the infrastructure in question.

The **Secretary General of OTIF** thought that from the technical point of view, compatibility with the infrastructure and the safety of international traffic had to be ensured. However, from the legal point of view, the requirement for the certification of IMs might go beyond the scope of COTIF. He reminded the meeting that international traffic only formed a small part of traffic overall, so requests to the OTIF MS to introduce harmonised certification of IMs’ SMS for international traffic only could be called into question. CTE could however make recommendations and define best practices.

**NB-RAIL** informed the meeting that some states had entrusted the certification of SMS to private third party assessment bodies (in AT for example).

**CER** supported the representative of the EU and suggested that if possible, the non-EU OTIF MS should be asked to provide a status report on the certification of IMs' SMS in order to be able to understand the extent of the problem.

In reply to the Chairman's question as to when such a report could be prepared, the **Secretary General of OTIF** explained that a circular letter could be prepared for the attention of non-EU OTIF MS, since the EU OTIF MS already certified IMs' SMS. He also noted that OTIF's concept of interoperability focused on the functions of the IM, rather than on entities that perform the IM's tasks. For example, some non-EU OTIF MS still have integrated railways that combine the functions of both the RU and the IM.

In reply to GCC's question, the **Secretariat** explained that this appendix was being developed primarily for application by the non-EU OTIF MS, as the EU OTIF MS already applied a similar system for traffic between the EU MS. Nevertheless, traffic between EU and non-EU states would come within the scope, so EU states would also benefit. It reminded the meeting that the new appendix would deal with safety and operations, but would not address questions of market access.

The **representative of the EU** (Patrizio Grillo) supported the Secretariat's proposal to use recommendations and practices relating to the certification of IMs, and supported the idea put forward by CER to have a report prepared for the Revision Committee in which the status of certification of IMs' SMS in non-EU MSs would be described.

**B.** The **Chairman** summarised the discussion on whether or not Appendix H should cover the certification of IMs and concluded as follows:

1. The CTE discussed the subject of IM certification from both technical and the legal points of view. The meeting concluded that from a technical point of view, such certification would be advisable, but that it did not seem feasible from the legal point of view, as it might go beyond the scope of COTIF. Instead recommendations and practices relating to the certification of IMs should be developed;
2. The OTIF Secretariat would prepare a circular letter for the attention of non-EU OTIF MS, requesting them to give the OTIF Secretariat adequate and timely feedback, before the meeting of the Revision Committee, with regard to their national situation concerning the IM, e.g. establishment of SMS, certification and supervision.

### **Responsibility for the safe operation of trains (Article 3 § 2)**

**CER** was of the view that Article 3 § 2, which made the RU and IM responsible for the safe operation of trains, should be amended to include all the other entities that have a potential impact on the safe operation of trains (maintenance suppliers, manufacturers, keepers, service providers, etc., as defined in Article 4.4 of the EU Safety Directive).

The **representative of the EU** (Patrizio Grillo) supported CER's view and proposed the initial amendment.

The **Secretariat** reminded the meeting of the reasons which had led to the current wording, i.e. that the train falls under the provisions of ATMF before its departure, and during its movement it would fall under the provisions of the new Appendix H. Nevertheless, it could agree to more inclusive wording and proposed amendments which were shown on a screen.



**C.** The **Chairman** noted that the following amendment was discussed and tacitly agreed:

“Without prejudice to the responsibilities of Entities in Charge of Maintenance of railway vehicles and of all other actors having a potential impact on the safe operation of the railway system, Contracting States shall ensure [...]”.

### **Editorial amendments to Article 7 § 1**

In order to harmonise the various language versions, the EU also submitted the following proposals to the Secretariat (amendments are shown in bold):

EN version

“Railway undertakings shall operate trains in international traffic only within the scope of their **Safety** Certificates.”

FR version

“Les entreprises ferroviaires exploitent des trains en trafic international dans les limites de leur certificat de **sécurité**.”

DE version

“Eisenbahnunternehmen dürfen Züge nur innerhalb des Geltungsbereiches ihrer **Sicherheitsbescheinigung** ~~Be-scheinigungen~~ betreiben.”

These modifications were tacitly agreed.

### **Development of further detailed provisions such as CSM (Article 8)**

The **Secretariat** informed the meeting that it had received two comments from the EU with regard to the list of annexes referred to in the explanatory text in the rectangle at the beginning of the Article.

Firstly, the EU suggested that the list should be transferred to the legal text of Article 8, followed by appropriate deadlines for the adoption of these annexes.

With regard to the EU’s proposal to include the list in the legal text, the **Secretariat** did not see any problem. However, in its opinion the states represented in the CTE could not be forced to adopt provisions before a deadline, and there would be no consequences if the deadline were not be met. The Secretariat instead suggested that the General Assembly could (strongly) recommend that these annexes be developed before a certain deadline. This recommendation would be a political signal and could be used to motivate speedy development.

Secondly, based on the EU’s experience in the past, the EU was concerned that in the absence of these annexes the non-EU OTIF MS might introduce national rules relating to the SMS or CSM, thus making harmonisation more difficult.

**RS** agreed that the annexes should be incorporated into the legal part rather than in the explanatory part.

With regard to the clarification requested by the representative of the GCC as to how Appendix H could be implemented without a deadline, the **Secretary General of OTIF** added to what the Secretariat had already said by explaining that the development had to be in line with the principle set out in COTIF. A new Appendix not only required the approval of

the General Assembly, but also the written approval of each state. He noted that swift implementation of Appendix H depended mainly on the willingness of the OTIF MS themselves. In addition, COTIF allowed MS to opt-out of applying specific appendices. If the OTIF MS wished not to apply certain appendices to the Convention in their entirety, they could notify the Secretary General accordingly.

The **representative of the EU** (Patrizio Grillo) repeated his concerns with regard to the deadlines for adopting the new annexes. The provisions of Article 5 could not be executed prior to the adoption of the CSM. He also noted that clarification was needed with regard to whether the CTE “shall” or “may” be competent to develop and adopt these annexes. Lastly, he wondered whether the list of annexes was exhaustive and suggested that all these points should be discussed by the Revision Committee.

**RS** suggested that the CTE should be authorised to adopt any other annexes, if need be.

The **Secretariat** suggested that the word “shall” should be used to ensure that the CTE developed the first four annexes listed in the explanatory note and that the possibility of developing other annexes, if need be, be kept open.

**D.** The **Chairman** summarised the discussion, noted the consensus and concluded as follows:

1. The CTE agreed to amend Article 7 § 1 in all three language versions, as proposed by the EU;
2. The CTE suggested that the General Assembly should strongly recommend that the annexes to Appendix H be developed before a certain deadline;
3. The CTE decided to include in the legal text of Article 8 the first four annexes, once the Secretariat had redrafted them. The CTE should be competent to develop other annexes, if need be.

#### **Conclusion:**

1. The CTE supported the general scope, aims and principles of the draft new Appendix H. The CTE mandated the OTIF Secretariat to modify the text in line with the discussion before submitting it to the Revision Committee. The Revision Committee could subsequently agree to submit it to the 13<sup>th</sup> General Assembly as a proposal;
2. The OTIF Secretariat would prepare a letter setting out the CTE’s findings for the Chair of the Revision Committee, to be signed by the Chair of the CTE.

## **6.2 Draft modified APTU: proposal for a recommendation to the Revision Committee**

**Document:** [TECH-17002](#)

The **Secretariat** had prepared document TECH 17002 – CTE10 – 6.2 for discussion at CTE 10. It highlighted the fact that it was important for international traffic that the provisions applicable in the EU and COTIF be harmonised. It also reminded the meeting that following adoption of the fourth railway package, the EU had changed several provisions and that the EC had kept the CTE and WG TECH informed about these changes. On the basis of an analysis by the EC, the Secretariat, in coordination with WG TECH, had prepared

modifications to APTU to ensure continued harmonisation with EU law. The Secretariat reminded the meeting that the CTE had no decision-making competence on this subject, but that it could use its expertise to provide the Revision Committee with a reasoned opinion. The Revision Committee had the decision-making competence for these modifications. The proposed changes only concerned Article 8.

The **Chairman** proposed to list all the comments that participants might have on the draft revised APTU, and then to discuss each of them individually.

### Article 2e

**CER** noted the editorial comment in the FR version with regard to the definition of the technical standard and its voluntary application. Bearing in mind the provision of Article 5 § 4, he proposed the following amendment:

“e) « norme technique » désigne une norme d'application volontaire adoptée par un organisme de normalisation international reconnu selon les procédures qui lui sont propres; »

**The representative of the EU** (Patrizio Grillo) wanted the EC to check the consistency of this proposal with EU provisions. He would inform the OTIF Secretariat of the results of these checks.

### Article 8 § 4h

**CER** wondered whether this point should apply in the case of renewal or upgrading and whether this text could become applicable retroactively.

**The representative of the EU** (Patrizio Grillo) supported the Secretariat's proposal to revise APTU. He reminded the meeting that in the EU, in cases of renewal or upgrading, applicants are obliged to submit the technical file to the NSA. Bearing in mind the strategy for implementing the TSIs, as indicated in Chapter 7 of each TSI, the NSA subsequently decides whether a new authorisation is needed. Although the EU supported the text as proposed, he was of the view that the conditions requiring a new authorisation should be clearly defined in UTPs.

### Article 8 § 4i

**RS** was of the view that assessment of the fixed subsystems (installations) would not be possible, as CTE had never adopted the relevant UTP. He suggested that consideration should be given to developing the UTP for fixed installations.

The **Secretariat** agreed with RS that the UTPs did not yet cover fixed installations. The concept of the proposed new text in APTU was not to indicate a need to develop a new UTP, but to require that future UTPs include parameters to check compatibility between vehicles and infrastructure.

**The representative of the EU** (Patrizio Grillo) informed the meeting that in autumn 2017, ERA would start work on introducing in the TSIs the parameters to check compatibility between vehicles and fixed installations.

### Article 8a

In view of the fact that CTE only met once a year, **CER** wondered about the efficiency of the CTE in cases where it was necessary to make urgent amendments to UTPs.

**The representative of the EU** (Patrizio Grillo) explained that in the EU there are provisions which prescribe what to do in urgent cases. The EC would request a technical opinion from ERA, which would subsequently be validated at one of the three RISC meetings that are held each year. In addition, there was also the option of RISC's written procedure.

The **Secretariat** reminded the meeting that the conditions for the withdrawal or suspension of certificates for operation are set out in Article 10 § 8 of ATMF and could be used in urgent safety critical cases. Concerning urgent changes to UTPs Article 8a §1 of APTU allowed CTE to take "appropriate measures". The **Secretary General of OTIF** thought that, instead of modifying Article 8a, WG TECH could prepare a specific procedure for urgent cases, which could then be discussed at the CTE.

The **Chairman** summarised the discussion, and concluded item 6.2 as follows:

1. The CTE noted that the EC would check the language versions of Article 2) and inform the OTIF Secretariat of the results;
2. The CTE dealt with the Article 8 and supported the amendments proposed for the Revision Committee;
3. With regard to how the CTE should act in urgent cases, the CTE noted that the existing legal framework in Article 8a § 1 was sufficient and could be used to develop specific procedures for urgent cases;
4. The OTIF Secretariat would prepare a letter for the Chair of the Revision Committee, to be signed by the Chair of the CTE.

### **6.3 a )Draft modified ATMF: proposal for a recommendation to the Revision Committee**

**Document:** [TECH-17003](#)

### **b) ATMF revision questions and considerations**

**Document:** [TECH-17017](#)

The **Secretariat** had prepared document TECH 17003 - CTE10 – 6.3 for discussion at CTE 10. It had been submitted for the same reasons as mentioned in the previous agenda item. The document had been prepared by the Secretariat, in coordination with WG TECH, on the basis of an analysis by the EC. The Secretariat reminded the meeting that the CTE had no decision-making competence on this subject, but that it could use its expertise to provide the Revision Committee with its opinion. The **Chairman** thanked the Secretariat for the introduction and opened the discussion.

**RS** suggested that Article 6 § 4 be broadened to include the requirement for additional admission in case of incompatibility between UTP compliant vehicles and non-harmonised infrastructure.

In response, **DE** reminded the meeting that after the introduction of Article 6 § 3, a freight wagon that was admitted could be used on each CS's network. DE explained that it was up to the RUs to ensure that the vehicle's technical characteristics were compatible with the characteristics of the infrastructure. This meant that, although a vehicle was admitted on all

networks, it did not mean that it could be operated on all parts of all networks. On the other hand, Article 6 § 4 covered the case of vehicles for which the interfaces with infrastructure are not harmonised, e.g. traction units for reasons of electrical supply, electromagnetic compatibility, etc. Such provisions were often country specific and could only be checked at national level. Therefore, in DE's view, the additional admission of vehicles for specific lines, rather than for the whole network, should be avoided.

**The representative of the EU** (Patrizio Grillo) supported the Secretariat's proposal to modify ATMF and also proposed a linguistic improvement to make the German text clearer (replace "Inverkehrbringungsgenehmigung" by "**Genehmigung zum Inverkehrbringen**" in Article 3a, §§ 1, 2 and 3 of the German version). He also endorsed DE's explanation and was of the view that the question of compatibility between UTP compliant vehicles and the infrastructure was already covered in Article 6, §§2, 3 and 4.

**RS** proposed that in the third paragraph of Article 10 § 4, in order to maintain consistency throughout ATMF, instead of: "Where the applicant wishes to *change* the area of use..." it should read: "Where the applicant wishes to **extend** the area of use [...]".

**The representative of the EU** (Patrizio Grillo) supported RS's proposal.

The **Chairman** noted that due to time constraints the OTIF Secretariat's document TECH-17017 could not be dealt with. He suggested that the two subjects it dealt with, i.e. the new role of ERA for vehicle authorisation and the interaction between ATMF and EU law within the meaning of Article 3a of ATMF, be discussed at WG TECH. CTE 10 tacitly agreed with this proposal.

He summarised the discussion, and concluded item 6.3 as follows:

1. The CTE accepted the EU's proposal to amend Article 3a §§ 1, 2 and 3 of the German version of ATMF;
2. With regard to the question of incompatibility between UTP compliant vehicles and non-harmonised infrastructure, the CTE noted that this point was covered in Article 6 §§ 2, 3 and 4 of ATMF and did not require any amendments;
3. The CTE agreed to use the word: "**extend**" instead of "*change*" in the third paragraph of Article 10 § 4 of ATMF;
4. The CTE mandated WG TECH to analyse and discuss document TECH-17017 and to report its findings to the next CTE meeting;
5. The CTE mandated the OTIF Secretariat to amend the document for the Revision Committee in line with the amendments that were discussed;
6. The OTIF Secretariat would prepare a letter for the Chair of the Revision Committee, to be signed by the Chair of the CTE.