



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

**Commission de révision
Revisionsausschuss
Revision Committee**

LAW-17135-CR26/10

27.10.2017

Original: EN

26TH SESSION

Partial revision of the APTU UR

Draft texts from the Committee of Technical Experts

1. PREPARATORY WORK

The provisions of the APTU UR are compatible with the provisions of the European Union's Interoperability Directive 2008/57/EC, in particular those concerning the content of Uniform Technical Prescriptions (UTPs) and their equivalence with the European Union Technical Specifications for Interoperability (TSIs).

As all Member States of the European Union with a railway network are also Member States of OTIF, and because of the substance of the provisions of the agreement of the European Union's accession to COTIF, 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 and in particular the recast Interoperability Directive (EU) 2016/797, the EU changed some provisions which were harmonised with APTU. The European Commission kept the Committee of Technical Experts and its standing working group TECH informed about these changes, both before and after they entered into force. On the basis of an analysis by the European Commission and the Secretariat, the WG TECH prepared modifications to APTU.

The modifications are necessary in order to ensure that the content of future European Union TSIs and COTIF UTPs remains equivalent.

The changes were presented and discussed at the 10th session of the Committee of Technical Experts, which convened on 13 and 14 June 2017 in Bern. The Committee of Technical Experts does not have any decision-making competence for these subjects, but it can use its expertise to advise the Revision Committee of its opinion. The Committee of Technical Experts did not identify any critical issues and supported the proposed changes.

Part 2 of this document describes the proposed modifications and their justification. In accordance with Articles 17 and 33 COTIF, the Revision Committee has decision-making competence for these modifications.

Part 3 of this document proposes modifications to the Explanatory Report corresponding to the proposed modifications to the APTU UR.

Note: the 12th session of the General Assembly decided to amend the provisions of Article 3 of the APTU UR. The entry into force of these amendments is still pending Member States' approval in accordance with Article 34 COTIF.

2. PROPOSAL FOR MODIFICATION OF ARTICLE 8 OF THE APTU UR

Article 8 UTP

[...]

§ 4 To the extent necessary to achieve the aim set out in Article 3, the UTP referring to subsystems shall at least:

[...]

- f) indicate the strategy for implementing the UTP. In particular, it is necessary to specify the stages to be completed in order to make a gradual transition from the existing situation to the final situation in which compliance with the UTP shall be the norm; for each stage, appropriate transitional provisions shall be included ~~and~~;
- g) indicate, for the staff concerned, the professional qualifications and health and safety conditions at work required for the operation and maintenance of the subsystem concerned, as well as for the implementation of the UTP ~~;~~;
- h) indicate the provisions applicable to the existing subsystems and vehicles, in particular in the event of upgrading and renewal and, in such cases, the modification work which requires an application for a new admission and**
- i) indicate the parameters of the vehicles and fixed subsystems to be checked by the railway undertaking and the procedures to be applied to check those parameters to ensure compatibility between vehicles and the routes on which they are to be operated.**

§ 5 [...]

Justification

New point h) is equivalent to EU provisions in Article 4 (h) of Directive (EU) 2016/797.

On point i) the EU provisions in Article 4 (i) of Directive (EU) 2016/797 state: “*indicate the parameters of the vehicles and fixed subsystems to be checked by the railway undertaking and the procedures to be applied to check those parameters after the delivery of the vehicle authorisation for placing on the market and before the first use of the vehicle to ensure compatibility between vehicles and the routes on which they are to be operate*”.

The European Union’s concept of ‘placing on the market’ is not used in COTIF. In the EU a distinction is made between checks performed before the delivery of the authorisation for placing on the market and checks by the railway undertaking before the first use of a vehicle. It is not ruled out that competent authorities (rather than railway undertakings) of states not applying EU law would have a role in checking compatibility as part of the process leading to the admission to operation and the first use of a vehicle. This is the justification for the difference between the EU provision and the proposed letter i).

3. PROPOSAL FOR MODIFICATION OF THE EXPLANATORY REPORT

The Explanatory Report should be adapted to take account of the modifications to be adopted. The following text takes into account the modifications to APTU set out in section 2 of this document, assuming that they are adopted. Only the points and paragraphs which are new or are subject to modifications are included.

Article 8 UTP

[..]

- 4. At its 26th session, the Revision Committee modified Article 8 by adding points h) and i) in order to ensure continued harmonisation with EU law and to ensure that the content of future European Union Technical Specifications for Interoperability (TSIs) and COTIF Uniform Technical Prescriptions (UTPs) remains equivalent.**
- 5. The European Union's concept of 'placing on the market' is not used in COTIF. In the EU, a distinction is made between checks performed before the delivery of the authorisation for placing on the market and checks by the railway undertaking before the first use of a vehicle. It is not ruled out that competent authorities (rather than railway undertakings) of states not applying EU law would have a role in checking compatibility as part of the process leading to the admission to operation and the first use of a vehicle. This is the justification for the difference between the EU provision and the proposed letter i).**

4. PROPOSAL FOR DECISION

1. In accordance with Article 17 § 1 a) of COTIF, the Revision Committee adopts the modifications to Article 8 of Appendix F to the Convention (APTU UR) as set out in this document [and as amended at the meeting].
2. The Revision Committee approves the modifications to the Explanatory Report and requests the Secretary General to include the approved text in the Explanatory Report.