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VEHICLE REGISTER ACCESS

Discussion paper concerning the relevance of access to vehicle registers

1. BACKGROUND

On 1 April 2021, new [OTIF specifications for vehicle registers](#) (further referred to in this document as the ‘OTIF specifications’) entered into force.

The objective of vehicle registers is to make essential administrative data concerning vehicles in international traffic accessible to users such as railway undertakings, infrastructure managers, keepers and competent authorities, who can:

- check whether a vehicle is duly registered and the status of the registration;
- retrieve information on the admission to operation, including the authorising entity, the area of use, the conditions for use and other restrictions;
- retrieve the type of construction according to which the vehicle is built;
- identify the keeper, the owner and the entity in charge of maintenance.

As COTIF applies to international traffic only, the duty to register data and make it accessible applies only to vehicles intended for international traffic.

Access to vehicle data for authorised users, irrespective of where the vehicle is registered and whether the vehicle comes from an EU or non-EU Contracting State is very important. Without access to the data of a foreign vehicle, the Contracting State may require the vehicle in question to be registered in its register as well. This would mean an additional registration, meaning that one vehicle is simultaneously registered in two or more registers, which should preferably be avoided.

For this reason, it is important to agree on how eligible parties in one state can access data on vehicles which are used in international traffic in that state and registered in the vehicle register of another state.

2. ESTABLISHING VEHICLE REGISTERS

The OTIF specifications are based on European Union Commission Implementing Decision (EU) 2018/1614, establishing the European Vehicle Register (EVR). All EU Member States will use the EVR for all their vehicles, both domestic and international and, in so doing, are exempt from also applying the OTIF specifications.

Article 1 § 3 of the OTIF specifications states that: *“Contracting States which are also members of the European Union or which apply Commission Decision (EU) 2018/1614 through an agreement with the European Union shall not be subject to these specifications as long as they implement a register in accordance with the said European Union law.”*

The European Union has indicated that it will offer non-EU OTIF Contracting States the possibility of using the EVR, to register their vehicles that are admitted to international traffic. Under the OTIF specification, non-EU OTIF Contracting States also have the option of establishing their own register. The OTIF specifications require all registers to have a common data format.

As a result, there are three possible ways that Contracting States can fulfil their obligations with respect to the OTIF vehicle register specifications:

- EU Member States will use the EVR on the basis of EU law;
- Non-EU OTIF Contracting States which will use the EVR on the basis of an agreement with the EU;
- Non-EU OTIF Contracting States which will use a register other than the EVR, whether it be their own national register, or a common joint register with one or more other non-EU Contracting State(s).

3. ACCESS TO VEHICLE DATA

Article 13 § 6 of the ATMF Uniform Rules lays down that the *data in vehicle registers shall be considered as prima facie evidence of the admission*. Each Contracting State should therefore ensure that a vehicle register is available and that it can be accessed by all the relevant entities of another Contracting State.

Table 1 - The entities that should have access to vehicle data, as per Annex 2 to the OTIF specifications

Entity	Read rights	Update rights
Registration Entity of Contracting State 'XX'	All data	All data in vehicle register of CS 'XX'
Competent Authority of each Contracting State	All data	None
OTIF Secretariat	All Data	None
Keeper	All data on vehicles of which it is keeper	None
ECM	All data, except owner's references, on vehicles for which it is ECM	None
Owner	All data on vehicles of which it is owner	None
Railway undertaking	All data, except owner's references, based on one or more vehicle numbers	None
Infrastructure manager	All data, except owner's references, based on one or more vehicle numbers	None
Investigating body /Auditing Body/ Regulatory Body as designated by the Contracting States	All data on vehicles being checked or audited	None
EC declaration of verification issuing body (the applicant)	All data on vehicles of which it is the EC declaration of verification issuing body (the applicant), except owner's references	None
Other legitimate user recognised by the Competent Authority of a CS ⁽¹⁾	To be defined as appropriate, duration possibly limited, except owner's references	None

⁽¹⁾ the registrar shall, in cooperation with the competent authority, define the procedure for recognising legitimate users.

Having access to the correct data is very important for smooth international traffic by rail. This is irrespective of whether a Contracting State uses the EVR or any other register. "All data" in the table above should be understood in relation to the scope of the OTIF specifications, meaning data on vehicles intended for use in international traffic (as vehicles used only in domestic traffic only are not covered by COTIF).

On the basis of the OTIF specifications, Contracting States should inform the Secretary General of how eligible entities from other Contracting States can obtain access (reading) rights to the data on vehicles that are running in international traffic on their territory. The Secretary General will distribute this information among the Member States of OTIF.

In practice, not all data on all vehicles in international traffic have to be accessible to all entities in all Contracting States. A vehicle that is not admitted to a particular state cannot run in that state, so the entities in that state should not need access to the vehicle data. This limitation is currently not clearly expressed in the OTIF specifications, and could be added if the OTIF specifications were to be revised. Therefore, the current provisions in Annex 2 to the OTIF specifications, specifying that access should be granted to "All data", could be replaced with "All data concerning vehicles which are intended to be used in the Contracting State where the entity is located", or similar wording.

4. THE RELATIONSHIP BETWEEN THE EVR AND THE OTIF SPECIFICATIONS

Article 13 of the OTIF specifications requires that *vehicles admitted in international traffic which enter the rail network of the European Union shall be registered in the EVR*. This means in practice that vehicles from non-EU Contracting States that are intended to be used in international traffic with the EU must be registered in the EVR. This registration can be the result of either the non-EU Contracting State using the EVR on the basis of an agreement with the EU, or a registration in the EVR in addition to registration in the non-EU Contracting State's own vehicle register. This situation is not ideal, as such additional registrations may lead to inconsistencies between the registers or misunderstanding (that a Registering Entity will assign a new vehicle number, for example).

As mentioned above, Contracting States that use the EVR are not subject to the OTIF specifications. Nevertheless, if vehicles registered in the EVR are used in states that do not use the EVR, the data of these vehicles should be made accessible to the entities listed in the table above. If the data cannot be retrieved from the EVR, Article 8 § 6 of the OTIF specifications becomes relevant. It lays down that *Contracting States may require that vehicles whose registration data in accordance with these Specifications cannot be retrieved by the entities listed in Annex 2 be registered in their vehicle register before being operated on their territory*.

Table 2 - scenarios for access to vehicle data (scenario reference numbers between brackets)

Vehicle registered in → Vehicle running in ↓	State A EU state (EVR)	State B Non-EU state using EVR	State C Non-EU state using specific register (not EVR)
State D EU state (EVR)	(1) EU law applies, COTIF does not apply	(2) Data are in EVR Data are deemed accessible	(3) Data are in specific register of state C Data must be additionally registered in EVR
State E Non-EU state using EVR	(4) Data are in EVR Data are deemed accessible	(5) Data are in EVR Data are deemed accessible	(6) Data are in specific register of state C State E should be granted access to the register of state C If access is not possible, additional registration in EVR may be required
State F Non-EU state using specific register (not EVR)	(7) Data are in EVR State F should be granted access to EVR If access is not possible, additional registration in register of state F may be required	(8) Data are in EVR State F should be granted access to EVR If access is not possible, additional registration in register of state F may be required	(9) Data are in specific register of state C State F should be granted access to the register of state C If access is not possible, additional registration in register of state F may be required

Table 2 summarises the different scenarios for traffic between Contracting States. It differentiates between EU members and non-members and, for non-EU states, between states that use the EVR and states that have another (national) register.

Scenarios (1), (2), (4), (5), (7) and (8) are not currently covered by the OTIF specifications, as Contracting States using the EVR are exempt from applying the OTIF specifications. In particular, scenarios (7) and (8) need clarification, as these are not covered by the OTIF specifications or by EU rules. For these scenarios, either (reading) access to the EVR should be provided to entities of states that do not use the EVR, or vehicles registered in the EVR may need to be additionally registered in the vehicle register of the state concerned.

5. PROPOSED WAY FORWARD

The Secretariat suggests that guidelines and/or modifications to the OTIF specifications should be developed in order to ensure that vehicle data are available to all the eligible entities in all the Contracting States where the vehicle is used. The aim of such rules and/or guidelines should be to avoid the need for additional registrations.

To this end the following should be considered:

- Contracting States should make it possible for eligible foreign entities to retrieve vehicle data on any vehicle that they have registered and which is used internationally. This principle is already enshrined in the OTIF specifications. However, Contracting States that use the EVR are not subject to this principle. Therefore, vehicle data in the EVR should also be accessible to eligible entities in Contracting States that do not use the EVR, but on whose territory the EVR-registered vehicle is used.
- Access to foreign vehicle data should be limited to vehicles that are actually used in the Contracting State concerned. Entities of a particular Contracting State should not have access to data on vehicles that are not used in that state. This is particularly important to Contracting States which use one register for the registration of both domestic and international vehicles. This includes Contracting States that are also Member States of the European Union and use the EVR. The area of use of a vehicle is an indicator of where the vehicle is intended to be used. Consequently, only entities mentioned in Annex 2 which are situated in Contracting States within the area of use of a vehicle should have access to the vehicle data.

The OTIF specifications should be revised for these purposes.