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Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr
Intergovernmental Organisation for International Carriage by Rail

Groupe de travail TECH

Arbeitsgruppe TECH

Working Group TECH

TECH-22024

18.05.2022

Original: EN

46TH SESSION

Discussion document

Next step in monitoring and assessing the implementation of APTU and ATMF by Contracting States

1. INTRODUCTION

At its 14th session, the Committee of Technical Experts (CTE) will discuss the document entitled “Progress report on monitoring and assessment of the implementation of APTU and ATMF Uniform Rules (UR) by Contracting States” ([TECH-22010](#)), which reports on the first step of monitoring and assessment.

In document TECH-22010, it is proposed¹ that WG TECH should develop questionnaires in order to:

1. Obtain a better view on the use of vehicles in international traffic and on traffic volumes by involving the sector’s representative bodies (e.g. CER, ERFA, UIP and UIC);
2. Understand how, in practice, assessing entities apply the rules and procedures for assessing vehicles or vehicle types to ascertain whether they comply with the uniform technical prescriptions (UTPs);
3. Understand how, in practice, competent authorities apply the rules and procedures for issuing vehicle admissions;
4. Obtain a view on whether compliance with the UTPs is relevant with regard to authorisation for national use in the Contracting States.

This document (TECH-22024) lists the subjects that could be addressed in the next step of monitoring and assessing implementation of the APTU and ATMF UR. This is a discussion document which aims to facilitate the discussions at WG TECH. It suggests possible questions that could be addressed to the relevant stakeholders who are involved in or who rely on the technical admission of railway material used in international traffic. The subjects and questions could be addressed in the form of questionnaires, or in talks with stakeholders, or a combination of both.

2. GENERAL CONSIDERATIONS

On the basis of the APTU and ATMF UR and their Annexes and UTPs, all Contracting States should mutually recognise and accept evidence of verifications and technical certificates issued in accordance with the Uniform Rules, irrespective of the Contracting State in which they were issued. Contracting States therefore should be able to have confidence that all other Contracting States, including the stakeholders that have their place of activity in any of the Contracting States, implement and apply all the provisions fully and correctly. Monitoring and assessment may help underpin such confidence, or may reveal scope for improvement.

For the purpose of this document, “international traffic” is understood as the use of vehicles in the scope of the ATMF and APTU UR in traffic between EU and non-EU Contracting States and between non-EU Contracting States. Traffic between EU Contracting States only (where there is no transit through any non-EU Contracting States) should not be considered, as EU law is applied to this kind of traffic.

The ATMF UR set out the principles, objectives and procedures for the technical admission of railway vehicles, so that these can be used in international traffic. The technical requirements to be complied with for technical admission are defined in UTPs, which are adopted in accordance with the APTU UR.

The procedure for the technical admission of a vehicle involves the applicant (e.g. the manufacturer), an assessing entity and the competent authority. Technical admission is documented in certificates issued by the competent authorities. Vehicle keepers are responsible for ensuring that vehicles continue to comply with the rules throughout their operational life.

The EU and OTIF have aligned many of their rules for the approval of railway vehicles. This should facilitate the acceptance of vehicles in international traffic and avoid the need for repeated authorisations or admissions.

¹ Document TECH-22010 had not been discussed by CTE at time this document was being prepared; it is therefore possible that CTE may modify the tasks of WG TECH.

In general, the next step in monitoring and assessment is aimed at understanding how the rules are applied in practice and to gather feedback on experience gained during the process, obtain a view on the usefulness of these provisions in practice and identify possible shortcomings in the COTIF provisions.

It is important to note that monitoring and assessing implementation of the APTU and ATMF UR should not lead to an (implicit) assessment of the national law of any Contracting State or of EU law.

3. TOPICS, OBJECTIVES AND QUESTIONS

Each of the four topics listed in section 1 is further detailed below, in four separate parts.

PART 1 Use of vehicles

Objective

To obtain a better overview of the use of vehicles in international traffic and on traffic volumes by involving the sector's representative bodies.

Background information

The first step in monitoring and assessment involved the Member States only. Among other subjects, they were requested to provide data on vehicles and their use. It was possible to obtain information on the number of vehicles suitable for international traffic, but it was not possible to obtain information on how these vehicles were actually used in practice. Involvement of the sector's representative bodies may help improve understanding of the latter.

Type of information to be gathered

It would be useful to know more about how vehicles are used in international traffic on the basis of COTIF provisions. This information may help to assess whether the COTIF provisions are useful and fit for purpose and may identify any shortcomings.

The information from the respondents could e.g. consist of:

- The number of vehicles that are being used in international traffic between two or more OTIF Member States;
- The number of scheduled connections (e.g. specific block trains) which have their origin, destination, or both in a Contracting State that is not an EU Member State;
- Anecdotal information (e.g. that one factory in non-EU Contracting State A is sending twice weekly trains to another factory in EU Contracting State B).

Stakeholders to be involved

As it was not possible to obtain the required data from state authorities, or from vehicle registers, the suggestion is to ask professional associations for their feedback, such as:

- wagon keepers represented by UIP,
- railway undertakings, represented by CER and UIC,
- Railnet Europe, as a central body involved in path allocation, including the relevant rail freight corridor administrations.

Proposed questions

1. Could you describe how freight wagons, in general, are being used in international transport by rail?
(For example, are most wagons used together in a 'pool'? Is there a difference, from a business and operational point of view between domestic and international traffic? Are particular wagons used only on particular routes or corridors?).
2. Are your members using vehicles in traffic that crosses EU outer borders and therefore relies on both EU law and COTIF?
(For example, from an EU MS to TR, the UK or RS and vice versa. This excludes traffic from and into CH and NO, as they apply EU law).
3. Could you indicate or estimate the number of wagons used in traffic that crosses EU outer borders, or the percentage of the total fleet that is occasionally or regularly used in this kind of traffic?
4. Could you indicate or estimate the frequency of rail services that cross EU outer borders?
5. Based on path requests or timetables, could you provide information on whether the services are ad hoc, seasonal, night or block train services?
6. Do your members have experience with requesting admission of a vehicle to international traffic in accordance with the ATMF UR (i.e. a request to an authority that does not apply EU law)?
7. During the technical admission of a vehicle, have your members experienced particular problems during the process (for example, with the acceptance of documentation, or otherwise)?
8. Formally, a vehicle that is admitted to international traffic in accordance with the ATMF UR is not automatically approved for use in domestic traffic as well. Have you experienced additional procedures for the acceptance of such vehicles for domestic traffic in one or more states?
9. Have your members had experiences where a vehicle that was admitted in accordance with the ATMF UR in one Contracting State has been stopped in another Contracting State (EU or non-EU)? If so, please describe the (alleged) reasons.
10. How important is it that a vehicle admitted for international traffic can also be used in domestic traffic and why?

PART 2

The work of assessing entities

Objective

To understand how, in practice, assessing entities apply the rules and procedures for assessing vehicles or vehicle types to ascertain whether they comply with the UTPs.

Background information

The assessing entity is responsible for checking whether vehicles are in conformity with all the applicable UTPs and the applicable national rules and specific cases.

According to Article 5 § 2 of the ATMF UR, assessing entities must be independent from any rail transport undertaking, infrastructure manager, keeper, entity in charge of maintenance and designer or manufacturer of railway material. The qualifications and independence of the assessing entity are defined in UTP GEN-E.

Assessing entities of Member States of the European Union are referred to in EU law as Notified Bodies. In accordance with UTP GEN-D, Notified Bodies are also considered as meeting the requirements of assessing entities in the meaning of the ATMF UR.

Non-EU assessing entities are invited to cooperate with Notified Bodies at EU level in the form of NB-Rail meetings.

Type of information to be gathered

It is not clear to what extent the COTIF provisions, such as the UTPs, are applied by assessing entities in practice. It would be useful to obtain information on how assessing entities use and apply the COTIF provisions in their activities.

The OTIF Secretariat only has very limited information on how assessing entities are organised and supervised at national level, or on how they cooperate among themselves at international level.

A better understanding of these aspects may help to assess whether more coordination between authorities and assessing entities at OTIF level would be useful.

Stakeholders to be involved

The assessing entities listed on the OTIF website: http://otif.org/en/?page_id=200

Proposed questions

1. Is the organisation also a Notified Body in accordance with EU law?
2. Does the organisation have any experience in applying the provisions of COTIF, in particular the UTPs?
3. How many vehicles or vehicle types has the organisation assessed for compliance with one or more UTPs? Please elaborate.
4. Does the organisation carry out all assessments in-house? If not, please explain why.
5. Please describe the correlation between the organisation and the national competent authority, if any.
6. Was the organisation subject to accreditation or to another type of audit before it was declared as being competent to perform UTP assessments? Please elaborate.
7. Is the organisation subject to any type of recurring audit?
8. Does the organisation itself carry out operational tests as part of a vehicle assessment (e.g. for running stability, noise emission, braking, etc.)? If not, who performs these tests and how do the results feed into the assessments? Please also describe the relationship between the test institute and the organisation.
9. Is there a specific procedure at national level according to which the organisation is informed of any changes to the legal provisions of COTIF, such as the UTPs?
10. Are the organisation's staff familiar with the UTP application guides that are available for some of the UTPs? If so, are they useful and how could they be improved?
11. Are the organisation's staff familiar with the 'equivalence table' that is reviewed at every WG TECH meeting? If so, is it useful and how could it be improved?
12. Is the organisation a member of NB-Rail, the association of notified bodies at EU level?
13. Do the organisation's staff attend the 'subgroup rolling stock' meetings of NB-Rail (note: non-EU assessing entities are also invited).

PART 3

The work of competent authorities

Objective:

Understand how, in practice, competent authorities apply the rules and procedures for issuing vehicle admissions.

Background information

Art. 5 §2 of the ATMF UR stipulates that *competent authorities may or, according to the provisions in force in their State, shall transfer to assessing entities the competence to carry out assessments as a whole or partly, including the issuing of the corresponding certificates of verification.*

The list of competent authorities can be found on OTIF's website: http://otif.org/en/?page_id=200

In most Contracting States, the competent authority is separate from any assessing entity. This is the case in all EU Member States (where the competent authority is ERA and the assessing entities are referred to as Notified Bodies).

Some Contracting States (Bosnia and Herzegovina, Serbia and Turkey) have notified that their competent authority is also an assessing entity.

Some Contracting States have not notified their competent authority, meaning that these Contracting States cannot currently admit vehicles to international traffic.

The technical admission of a vehicle granted in a Contracting State should be recognised in other Contracting States without the need to repeat the procedure in these States.

Type of information to be gathered

The objective is to obtain information about the applicable procedures for the admission of vehicles (to international traffic) and about the responsibilities for assessing entities and competent authorities. The questions should be addressed to states which do not apply EU law, as the formal relations and practical arrangements at EU level are laid down in publicly accessible EU law².

In particular, it would be helpful to obtain information on:

- How an applicant should request vehicle admission;
- The procedural steps and timeline for the admission of a vehicle;
- Formal and practical involvement of the actors and cooperation between them in the various procedural steps (the actors are e.g. the competent authority, the assessing entity, test institutes, external experts, the applicant, the keeper, the manufacturer and the end-user (railway undertaking or keeper));
- The mutual acceptance of vehicle admission and of documentary evidence relating to tests and assessments carried out in other Contracting States;
- Language requirements for documentary evidence.

² See for example Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018R0545>

Stakeholders to be involved

The competent authorities listed on OTIF's website.

Proposed questions

1. As a competent authority, do you also carry out the functions of the assessing entity? If this is the case, could you indicate whether all the relevant expertise is available in-house, or whether part of the assessments and tests are carried out by external experts (e.g. test-institute, university, other.)
2. Could you provide an organigram of the competent authority?
3. Could you provide a process diagram of the entire vehicle admission procedure?
4. Which languages do you accept for documentation relating to vehicle admission?
5. Could you indicate the legal basis for accepting foreign vehicles in international traffic on the territory of your state (i.e. is this by direct reference to COTIF, or is there specific national law for this purpose)? If specific national provisions apply, could you please summarise the principles of these provisions?
6. Have you had experience with test results and assessment reports issued by an assessing entity from another Contracting State? Please elaborate.
7. Have you had experience where a vehicle that you admitted in accordance with the ATMF UR in one Contracting State has been stopped in another Contracting State (EU or non-EU)? Please give examples and, if possible, explanations as to why this happened.
8. Have you ever had to ask for additional information before being able to accept (to international traffic) a vehicle that was admitted in accordance with the ATMF UR in another Contracting State? Please describe the type of information that was missing.
9. Do you have contact with other competent authorities, for example to exchange practices or to coordinate the admission of vehicles? If this is not the case, would you be interested in establishing such contacts and should OTIF play a role in this?

PART 4

Admission of vehicles to international traffic and to domestic traffic

Objective:

To obtain a view on whether compliance with the UTPs is relevant with regard to authorisation for national use in the Contracting States.

Background information

COTIF applies to international traffic only and there are no COTIF rules that extend the application of COTIF to national traffic. In practice and with few exceptions, vehicles are not exclusively used in international traffic, i.e. most vehicles will at least sometimes also be used in domestic traffic. A vehicle therefore has to be admitted for use in domestic traffic as well as for use in international traffic. Even though the procedures might be combined for practical reasons, from a legal perspective these are two separate procedures. Consequently, any Contracting State may have specific requirements applicable to a vehicle as part of the admission to domestic traffic.

Type of information to be gathered

The objective is to obtain information on the rules and procedures that apply in a Contracting State for the admission of vehicles to domestic traffic, vis-à-vis the UTPs.

In particular, it would be useful to understand which rules and procedures Contracting States apply for the admission to domestic traffic of vehicles that have already been admitted to international traffic.

Stakeholders to be involved

Competent authorities listed on OTIF's website.

Proposed questions

1. Is there a formal distinction in national legislation between:
 - a. Domestic and international traffic;
 - b. Vehicles for domestic use and vehicles for international use?

If this is the case, could you provide the definitions or, alternatively, could you explain what formally distinguishes international traffic from domestic traffic?

2. Are there checks, or is there surveillance, on how (foreign) vehicles are used in traffic on the territory of your state?

(For example, are there checks at border stations, are railway undertakings required to log where they use vehicles, etc.?)
3. Are there formal rules that limit the use of foreign vehicles in domestic traffic on the territory of your state? If so, could you list or summarise these rules?

(For example, rules stipulating that a vehicle may only operate for a particular time, or only on particular lines).
4. What conditions have to be met for registration (for domestic traffic) in your state of an existing foreign vehicle that is already admitted to international traffic on the territory of your state?

(This question refers to the situation where a keeper seeks to register an existing vehicle that was previously registered in another state).
5. What are the rules and procedures for admission of a new vehicle to domestic traffic when this vehicle is built according to a type that is already admitted to international traffic on the territory of your state?

(This question concerns a new vehicle that is built exactly according to a type that has been admitted to international traffic on the basis of COTIF by another Contracting State).
6. In your view, should Contracting States be advised to align their rules for the admission of vehicles to domestic traffic with the COTIF rules for vehicles in international traffic? If so, what would the main arguments be in support of this?