



ORGANISATION INTERGOUVERNEMENTALE POUR LES TRANSPORTS INTERNATIONAUX FERROVIAIRES  
ZWISCHENSTAATLICHE ORGANISATION FÜR DEN INTERNATIONALEN EISENBAHNVERKEHR  
INTERGOVERNMENTAL ORGANISATION FOR INTERNATIONAL CARRIAGE BY RAIL

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**Assemblée générale  
Generalversammlung  
General Assembly**

**AG 12/13 Add.10  
27.04.2015**

Original : EN

## **CONSOLIDATED EXPLANATORY REPORT**

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**ATMF UR**

## **Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic (ATMF)**

### **Explanatory Report <sup>1</sup>**

#### **General Remarks**

1. The General Remarks concerning the text amendments to APTU also apply to the ATMF Appendix.
2. The legal systems of almost all the Member States of the Intergovernmental Organisation for International Carriage by Rail (OTIF) provide that, in order to be operated or used in public traffic, means of transport (motor vehicles, railway vehicles, river boats, ships of the high seas and aircraft) must conform to certain specifications concerning construction and operation. Approval for public traffic is generally effected by means of an administrative document in the form of an approval of a model or a type of vehicle (prototype), followed by an admission to traffic of the individual vehicle, the latter being effected in a simplified manner, to the extent that the individual vehicle, according to the information supplied by the manufacturer, corresponds to the type or model already approved.
3. The purpose of these procedures, which are based on national and international law, is primarily traffic safety. In the majority of the Member States of OTIF, technical admission of vehicles for traffic is a sovereign task (state or at least public) which is partially entrusted to private companies (e.g., manufacturers). The procedure involves the manufacturers and the competent authority in the case of a model or type approval (admission of a type of construction). On the other hand, the admission procedure involves the person using the vehicle, or the keeper, and the competent authority in the case of admission of an individual vehicle for traffic (admission to operation). Technical admission is documented in certificates issued by the competent authorities. Frequently, the authorities with responsibility for admission also act as technical supervision authorities, with responsibility for periodic inspections of the safety of vehicles required by law, either by conducting these inspections or supervising them. This task is entrusted in part to private agencies (e.g., approved inspection centres).
4. The situation is essentially the same with regard to the technical admission of railway vehicles. Unlike the system in respect of the technical admission of other vehicles, historically in the majority of the Member States of OTIF, the agency responsible for the admission of railway vehicles used to be the same as the company which uses the vehicle: in this case, the railway. The reason for this lay in the fact that, to a large extent, the railways and the State constituted a single entity (railways as a part of the state administration, incorporated in the State in the form of a public undertaking, patrimony or other form). For this, technical admission of railway vehicles was performed, in the past, by the railways themselves, in their capacity as state agencies. In

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1 The articles, paragraphs, etc. which are not specifically designated are those of the ATMF Uniform Rules; unless otherwise evident from the context, the references to the reports on sessions not specifically identified relate to the sessions of the Revision Committee.

addition, the development of technical specifications for the construction and operation of railway vehicles, serving as a basis for technical admission, has been largely entrusted to the railways and their international associations. At international level, this has resulted in the Regulations on the Reciprocal Use of Wagons (RIV) and of Carriages and passenger coaches (RIC) in International Traffic, agreed between the railways, as well as the technical leaflets of the International Union of Railways (UIC).

5. For the Member States of OTIF which apply ATMF, this special legal situation in the rail sector is no longer permitted as in accordance with Article 5, the competent authorities are not permitted to transfer competences for the assessment of vehicles to railway undertakings (RU), infrastructure managers (IM), keepers, entities in charge of maintenance or designers or manufacturers of vehicles.
6. When the Explanatory Report refers to EU Member States, it also applies *mutatis mutandis* to States where European Union legislation applies as a result of international agreements with the European Union.
7. On the basis of the Directive 91/440/EEC and subsequent Directives and related rules, Union law prescribes for the members of the EU and of the EEA an independent management of the rail transport undertakings, and hence a separation, in terms of organisation and law, of the State from the rail transport undertaking. The Directive also authorises a separation, in terms of law and organisation, of rail transport from infrastructure management, but without imposing the legal form (private or public status). In the majority of the Member States of the EU, as well as in some States wishing to accede to the EU, management of the rail transport undertakings is already independent of the State.
8. Added to these fundamental changes, in the States of the EU and the EEA, was the opening of the rail networks to other rail transport undertakings as initiated by Directive 91/440/EEC.
9. It proves to be necessary to regulate in a uniform and mandatory manner, at international level, the principles of a system of technical admission of railway vehicles for international traffic as well as the technical specifications for the construction and operation of vehicles, serving as a basis for admission. Although the UIC technical leaflets were mandatory for the members of that association, they do not have the same status as legal provisions drawn up at state level. The ATMF Uniform Rules, are the reasonable and politically logical response to the legal development that has occurred within the EU, the EEA and, to some extent, in other States. Since international rail traffic does not concern only the States of the EU and the EEA, but equally the other States that joined together within OTIF, it should be subject to common rules, and not just with regard to transport law (CIV/CIM Uniform Rules). Consequently, it was logical to regulate the “technical” complex within the framework of OTIF/COTIF, insofar as this is of importance for international traffic.
10. The ATMF Uniform Rules (Appendix G to the Convention) set out the principles, objectives and procedures of technical admission of railway vehicles. The uniform technical specifications concerning the construction and operation

of vehicles and of infrastructure, contained in the Annexes of the APTU Uniform Rules (Appendix F to the Convention), will constitute the basis of technical admission. Compliance with these specifications is necessary to render possible competitive international rail traffic without being compelled to change traction vehicles, pass through gauge or axle changing installations, transfer or change train at change-over points from one network to another.

11. The UTPs could constitute the precursor of a set of uniform, international regulations for the construction and operation of railway material, the over-riding objective of which is to achieve maximum interoperability - beyond the geographical area of the EU and the EEA - at least in the areas in which standardisation of the technical specifications concerning construction and operation is not justified for financial reasons (e.g., due to differences in gauge, rail gauge template, electric power supply systems and train safety systems).
12. In the Member States of OTIF, there are several different gauges:
  - 1668 mm wide gauge in Spain and Portugal
  - 1600 mm wide gauge in Ireland
  - 1524 mm wide gauge in Finland
  - 1520 mm wide gauge in Lithuania, as well as in a section in the south of Poland and on a section in Romania
  - 1000 mm narrow gauge and other gauges in Tunisia, as well as in some parts of Spain, in Portugal, Algeria, France (Corsica), Italy (Sardinia), Greece (Peloponnese) and Switzerland
  - 1435 mm standard gauge in the other Member States, apart from some small regional networks

Although not all these gauges are used for international traffic and therefore would not all fall in the scope of application of COTIF. .

13. The same could apply with regard to uniform technical prescriptions concerning the track gauge template, the electric power supply systems and the safety systems. As long as these inherited differences between networks continue to exist, it remains necessary to apply specific cases and notified national requirements for certain types of vehicles, on top of mandatory uniform technical specifications for technical admission.
14. The ATMF Uniform Rules essentially contain a uniform regulation for the procedure for the technical admission, by the authorities of the Member States, of railway vehicles intended for use in international traffic and the responsibilities for the use and maintenance of these vehicles. A consequence of this uniform procedure is that technical admission granted in a Member State is recognised in another Member State of OTIF without the need for a repeat procedure in these States.

## ATMF

15. The initial ATMF Uniform Rules were unanimously adopted by the Fifth General Assembly, with one abstention, subject to a series of amendments to the version decided by the Revision Committee.
16. At its 24<sup>th</sup> session (Bern, 23-25.6.2009), the Revision Committee adopted extensive amendments to the APTU and ATMF UR, changing parts of the basic concept.
17. At its 25<sup>th</sup> session (Bern, 25-27 .6.2014), the Revision Committee adopted extensive amendments to Articles 2, 3a to 8, as well as 10 to 20 of the ATMF UR, introducing a new Article 15a and further aligning the rules with those in force in the EU.

**In particular****Article 1  
Scope**

1. This article defines the scope of application of the ATMF Uniform Rules and states that this is a *regulation concerning procedure*.
2. The Article lays down the general scope. The specific rules on the cases in which provisions adopted according to the procedures under APTU for the use of railway material in international transport are applicable, particularly when this concerns States in which EU law applies, are dealt with in this Appendix. Traffic between the following groups of States is dealt with:
  - a) only between Member States of OTIF that are not members of the EU or the European Economic Area Agreement (EEA), Article 6 § 3,
  - b) only between Member States of OTIF that are also members of the EU or EEA, Article 3a § 3,
  - c) from one OTIF Member State that is also a member of the EU or EEA to an OTIF Member State that is not a member of the EU or EEA, Article 3a § 1 and
  - d) from one OTIF Member State that is not a member of the EU or EEA to an OTIF Member State that is also a member of the EU or EEA, Article 3a § 2.
3. With regard to matters that are not covered or that are only partly covered by UTPs, see the remarks on Article 7.
4. Where particular matters are not covered by APTU and ATMF or by the provisions that are based on them, it is generally the national technical provisions that apply in the Contracting State in which the application for technical approval is made (see Article 7). In the case of States in which EU law applies, this particularly concerns aspects covered by the EU directives on interoperability, safety and market access.

**Article 2  
Definitions**

1. In order to avoid expanding the texts unnecessarily, Article 2 of ATMF includes terms that are used in both Appendices APTU and ATMF. This Article therefore contains definitions of terms used in APTU and ATMF as well as definitions of those terms that are only used in ATMF. In the English version, the terms are arranged alphabetically. The other language versions follow the sequence of the English version.
2. This article defines the terms that are necessary to the ATMF Uniform Rules. Some of these definitions are also to be found in other Appendices, e.g. in the CUI Uniform Rules and the CUV Uniform Rules (“rail transport undertaking”, “infrastructure

manager”, “keeper”), while other terms are of relevance only to the ATMF Uniform Rules (“admission of a type of construction”, “admission to operation”, etc.). In the 19<sup>th</sup> session, the Revision Committee decided to incorporate all the definitions into the Appendices concerned and not into the basic Convention if and insofar as this proved to be necessary (Report on the 19<sup>th</sup> session, p. 17).

At its 24<sup>th</sup> and 25<sup>th</sup> sessions, the Revision Committee adopted comprehensive amendments to this Article.

3. Regarding the “Committee of Technical Experts” in letter d) it should be noted that for border crossing infrastructure objects such as tunnels, bridges, etc. two Contracting States may agree to set up a specific joint authority like the Intergovernmental Safety Commission for the Eurotunnel between France and United Kingdom. Such authorities are allowed to be separately represented in the Committee of Technical Experts according to Article 16 § 5 c) of the Convention, i.e. without the right to vote.
4. Letter ac): The definition of accreditation body is included to distinguish ‘Accreditation’ from ‘Recognition’. Recognition is attributed by a competent national body other than the accreditation body (e.g. when no accreditation body exists in a country).
5. Letter l): The definition takes account only of the fact that the traffic occurs on infrastructure located on the territory of at least two “Contracting States”, irrespective of the purpose of this traffic. Consequently, even traffic which is not subject to the CIV/CIM Uniform Rules or to the CUI Uniform Rules is subject to the ATMF Uniform Rules.
6. In its 25<sup>th</sup> session, the Revision Committee decided to delete, in the Articles which were in its competence, the definition of and reference to “other railway material” as there is no practical use for it.

Previously it was understood that the definition “other railway material” in letter s) included movable equipment not being a railway vehicle for which equipment common specifications to achieve interoperability would be important.

7. Letter t): The definition of rail transport undertaking corresponds to the result of the work of the 12<sup>th</sup> session of the Revision Committee concerning Article 2, letter a) of the CUV Uniform Rules (Report, pp. 8 to 10).

At its 25<sup>th</sup> session, the Revision Committee reworded the definition in order to be better in line with the definition used in the EU. It also added ‘railway undertaking’ to underline that it is the same entity.

When infrastructure managers operate vehicles, e.g. freight wagons, to transport materials for construction or for infrastructure maintenance activities, infrastructure managers apply the rules set out in ATMF which apply to railway undertakings.

8. Letter k): The definition of infrastructure manager differs from that of Article 3, letter b) of the CUI Uniform Rules and is compatible with EU law.

9. Letter n): The definition of the keeper differs from that of Article 2, letter c) of the CUV Uniform Rules, to the extent that it includes an additional element namely the registration in the vehicle register.
10. For the definition of “serious accident” in letter z) an amount in SDR is mentioned. SDR means the currency of the International Monetary Fund (IMF) which according to Article 9 of the Convention is the unit of account referred to in its Appendices.
11. Letter cc): the notion of “technical admission” being understood as a general term with regard to the procedure leading to admission of a type of construction or admission to operation and thus also including the result of the procedure.
12. Letter ee1): This definition of a “train” is included to distinguish between a vehicle on the one hand, which is a technical product, and a train on the other, which is an operational formation prepared for operation under the responsibility of e.g. a railway undertaking.
13. Letter ff): The distinction between type examination certificate and design examination certificate is introduced to better support the two principles as set out in UTP GEN-D.

### **Article 3** **Admission to international traffic**

1. Admission of vehicles to operation is necessary and justified for reasons of safety in international traffic (§ 1). The purpose of the technical admission according to the procedure in accordance with the ATMF Uniform Rules (§ 2) is to facilitate the free movement of railway vehicles and the free use of other railway material in international traffic. In addition, the protection of the environment and public health must be taken into account (see Article 3 APTU). No other consideration applies to the procedure for the technical admission of railway vehicles and other railway material in accordance with the ATMF Uniform Rules.
2. § 3 states that the technical admission procedure also applies analogously to other railway material and to construction elements of vehicles and other railway material. In these cases, in particular, it is the procedure for the granting of an admission of a type of construction which will be applicable (Article 4, § 1, letter b), Nos. 1 and 2). Throughout the text, the term “railway vehicle” includes the construction elements.
3. The possibility of the technical admission of construction elements is useful because this allows simplification of subsequent technical admission, e.g., of a vehicle as a whole. However, in the case of the technical admission of a vehicle whose construction elements have already been approved, it is necessary to examine the way in which the elements operate together. It is self-evident that the approval of construction elements cannot replace the approval of a vehicle as a whole (Report on the 15<sup>th</sup> session, p. 40/41).



4. At its 24<sup>th</sup> session, the Revision Committee decided to include a new Article 3a after this Article. The new Article concerns the interaction with other international agreements.

**Article 3a**  
**Interaction with other international agreements**

1. § 1 deals with the operating approval according to ATMF of a railway vehicle which has been approved in accordance with the applicable EU law by a Contracting State.
2. With respect to § 1, letter e), specific cases are national deviations from the requirements in sections 4 or 5 of the UTP. Depending on the content of the specific cases, the application of specific cases may limit the conditions of admission or authorisation for placing in service of a vehicle. This is the case when application of the specific cases results in the vehicle not being compliant with the requirements in sections 4 or 5 of the UTP.
3. § 2 deals with the authorisation of placing into service in EU Member States and in Contracting States which apply EU law as a result of international agreements with the European Union of a railway vehicle approved in accordance with ATMF.
4. § 3 deals with railway vehicles which are only used in Contracting States that apply EU law as EU Member States or on the basis of international agreements. For such items, the applicable EU law applies.
5. With respect to § 3, within the EU Railway Undertakings (RUs) and Infrastructure Managers (IMs) have to obtain a safety certificate/safety authorisation respectively. The prerequisite for this is that they implement a safety management system (SMS) according to Art. 9 and Annex III of Directive 2004/49/EC and corresponding European implementing Rules, by means of which they ensure that they control all risks that can occur during railway operations. The national safety authorities in the EU Member States check whether the SMS complies with the above-mentioned requirements and issue the safety certificate/safety authorisation accordingly.
6. With the introduction of the new Article 15a of ATMF, the scope of ATMF is extended to cover certain responsibilities for the composition and operation of trains. These operational responsibilities as set out in Article 15a of ATMF are compatible with EU rules. However, the scope and level of detail are not identical to the corresponding EU rules. For example, ATMF does not include a requirement similar to the EU provisions on safety certification/authorisation and SMS. ATMF Art. 15a sets out minimum requirements to ensure the safe operation of trains. They cover only a part of the EU SMS regulations.
7. In some EU Member States, the ATMF is transposed into national law at a higher level than the law implementing EU rules on similar subjects. For this reason it is important that the application of ATMF is clarified in relation to EU rules.
8. Article 3a § 3 is derived from Article 2 of the “Agreement between the European Union and the Intergovernmental Organisation for International Carriage by Rail on the accession of the European Union to the Convention concerning International Car-

riage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999”, which reads: "Without prejudice to the object and the purpose of the Convention to promote, improve and facilitate international traffic by rail and without prejudice to its full application with respect to other Parties to the Convention, in their mutual relations, Parties to the Convention which are Member States of the Union shall apply Union rules and shall therefore not apply the rules arising from that Convention except in so far as there is no Union rule governing the particular subject concerned".

9. Until equivalent COTIF rules are in force, all RUs and all IMs are subject to EU rules in order to be permitted to operate in the EU. This would cover, for example, rules relating to safety certification, licensing and safety management. The consequence for RUs and IMs operating in the EU, irrespective of whether they are coming from an EU Member State or a Non-EU Member State, is that they are obliged to implement an SMS and to obtain a safety certificate/safety authorisation.
10. Insofar as COTIF includes operational rules which are equivalent to EU rules, such as operational rules contained in UTPs, operational activities performed outside the EU in accordance with these COTIF rules should also be recognised in the EU. This could for example apply to the activities of the ECM, or train preparation activities and pre-departure checks by the RU.
11. The following three points illustrate the interaction between COTIF rules and EU rules:
  - a. For traffic between Member States of the EU, EU rules take precedence.
  - b. For traffic between EU and non-EU OTIF Contracting States:
    - i. For the part of such traffic which takes place on the territory of the EU Member States, EU rules apply, except insofar as there are equivalent rules arising from COTIF on the particular subject concerned.
    - ii. For the part of such traffic which takes place outside the territory of the EU Member States, COTIF rules apply. The COTIF rules should be complemented by national rules, insofar as there is no COTIF rule governing the subject.
  - c. For traffic between two or more non-EU OTIF Contracting States, COTIF rules apply. The COTIF rules may be complemented by national rules, insofar as there is no COTIF rule governing the subject.
12. The cross-acceptance dealt with in §§ 1 and 2 concerns not only individual approvals, but also admissions of vehicle types in accordance with § 4.

#### **Article 4 Procedure**

1. This Article only deals with the approval procedure for vehicles, while with regard to the approval of infrastructure, § 3 refers generally to the provisions that apply in the State concerned (clarified further in Article 8 § 2). For EU Member States, these provisions include the relevant EU law.
2. Apart from admission through individual inspection, § 1 letter b) provides for a two-stage technical admission procedure. This corresponds, to a very large extent, to the technical admission procedure for road vehicles and aircraft. Whereas the admission of a type of construction of a vehicle requires an intensive inspection (squareness, test runs, etc.) of this construction model/prototype, admission to operation can be granted through a simplified procedure provided that the vehicles concerned conform in all respects to the model or prototype that has already been admitted. Admission of a type of construction of a vehicle prototype includes the granting of admission to operation for this prototype.
3. According to § 1, the procedure is single stage (admission of a vehicle) or two stage (admission of a type of construction with subsequent admission of individual vehicles corresponding to this type of construction).
4. According to Article 10 § 8, the appropriate manner to demonstrate that the vehicle corresponds to the admitted type of construction is a certificate of verification. The certificate of verification is issued according to the appropriate module defined in the UTP GEN-D, which may be module SD or module SF for the type examination certificate or module SH1 for the design examination certificate.

#### **Article 5 Competent authority**

1. With regard to official responsibility, § 1 refers in principle to the law that applies in the respective Contracting State, which, in the case of EU Member States, includes the relevant EU law. However, according to § 4, certain requirements apply to these competent authorities and “suitable recognised bodies” appointed by these authorities. Only the competent authority may issue Certificates of Operation and Design Type Certificates.
2. § 1 states that the technical admission of railway vehicles - like the technical admission of other means of transport - necessarily comes within the competence of an authority. The activity of rail transport undertakings (the carriage of goods and persons, or management of the infrastructure) is commercial in character. A rail transport undertaking, whether or not it has its own infrastructure, can very well be in competition with other rail transport undertakings operating in the same way which might be using the infrastructure of the competing rail transport undertaking. For reasons of competition, these two activities (technical admission and transport / infrastructure management) must be separate from one another.
3. The competence to grant admission of a type of construction and admission to operation can be transferred to qualified, recognised agencies, including private

undertakings (legal institution of [German: “beliehenes Unternehmen”] = company authorised by the State). In the case of such a transfer, it is ultimately the State which must assume liability and undertake supervision of these agencies. It is only in this manner that it will be possible to eliminate doubts with regard to the law on competition (Report on the 15<sup>th</sup> session, p. 42; Report of the 5<sup>th</sup> General Assembly, pp. 147-151).

§ 2 does not exclude the competent authority in accordance with § 1 from transferring its competence in respect of conformity assessments wholly or partly to suitable recognised bodies in accordance with § 3.

The bodies listed to which no competence may be transferred are mainly the same as those that are entitled in accordance with Article 10 § 2 to submit applications for a technical certificate to be issued.

The word “partly” indicates that a “suitable body” may be appointed only for a specific technical competence, e.g. a specific UTP/TSI.

4. At its 25<sup>th</sup> session, the Revision Committee deleted the qualification criteria for assessing entities from ATMF, because these criteria are now contained in relevant UTPs. The ‘relevant UTP’ referred to in § 3 c) should be understood as a reference to the UTPs GEN-D and GEN-E. With reference to § 4, a competent authority that does not transfer competences to an assessing entity, must meet the requirements applicable for assessing entities in order to safeguard the independence of the assessment from the entities listed in § 2 a) - e).
5. § 2 will allow a Contracting State to appoint “suitable bodies” residing in the State. They may carry out tasks equivalent to the EC Notified Bodies. Article 6 § 1 will ensure that the approving authority of all Contracting States and other “suitable bodies” accept assessments of compliance with the UTPs that have been carried out by a “suitable body”. § 3 contains detailed conditions for bodies recognised as suitable taken from provisions that apply in the EU, particularly as regards their organisation, workforce, working methods, abilities, independence and discretion.
6. § 5 requires that the Secretary General be notified of the bodies responsible for assessments, certifications and approvals and that he must publish this information in a list which must be kept up to date.
7. § 6 requires that the Contracting States monitor continually the bodies referred to in § 2. If it is ascertained that they are not meeting the requirements in accordance with § 3, their competence must be withdrawn and the Secretary General must be informed accordingly.
8. § 7 deals with the course of action in cases where a Contracting State has come to the view that an authority or body for which another Contracting State is responsible is not meeting the requirements in accordance with § 3. Such cases must be submitted to the CTE, which has to take certain measures.

## **Article 6**

### **Recognition of technical admission**

1. This article sets out the important principle according to which a technical admission of a vehicle which is granted by the competent authority of a Contracting State of the ATMF Uniform Rules, either in the form of admission of a type of construction or in the form of admission to operation in accordance with the provisions of the annexes of the APTU Uniform Rules, is recognised in the other Contracting States of the ATMF Uniform Rules by the authorities, rail transport undertakings operating in those States and the infrastructure managers. This also applies to the related certificates. Within one of the States concerned which are Contracting States of the ATMF Uniform Rules, there is no need for a repeat technical admission procedure in respect of a vehicle which has been technically admitted for international traffic on their territory. A repeat procedure would be contrary to this regulation of international law (see also the remarks relating to Article 19).
2. § 1 prescribes as a general rule that technical certificates issued by a competent authority (Article 5) in a Contracting State are valid in all other Contracting States. However, use of them for certain vehicles or types of construction (§ 5) is subject to the following conditions.
3. According to § 2, the Railway Undertaking (RU) operating a vehicle must ensure that the vehicle is compatible with the infrastructure to be used.
4. The admission to operation for a vehicle which is in conformity with all the applicable UTPs is valid in all other Contracting States if these UTPs cover all the essential requirements and do not contain any open points in respect of compatibility with the infrastructure and provided that the vehicle is not subject to any specific cases or derogations.
5. For vehicles that do not meet the conditions of § 3, the applicant should meet the conditions according to § 4 for a complementary admission to operation. These conditions are set by the respective competent authorities of the Contracting States in which the admission should be valid, in accordance with the notified national technical provisions that apply there. Such conditions may involve risk analysis and/or additional tests, although duplication and repetition must be excluded and the equivalence table should be taken account of; furthermore, national technical provisions concerning open points that are not related to compatibility with the infrastructure are not to be checked before the admission to operation is complemented as the necessary checks of such open points have been made when the vehicle is admitted by the first Contracting State according to the national requirement of that State and those requirements should be cross-accepted. This constitutes the same principles as in the Interoperability Directive.
6. The Certificate of Operation for a vehicle does not grant its holder rights to operate trains or other rights. When operating the vehicle in a train, the law on the use of infrastructure has to be observed, including where applicable the Appendix E (CUI) concerning liability and insurance and including the law of the State where the carrier undertakes the activity of carrier. If that law is that of the EU or

corresponding domestic law, the relevant conditions, in particular the requirement for licensing, safety certification etc., have to be met and a liability insurance for the vehicle might have to be taken out.

7. At its 25<sup>th</sup> session, the Revision Committee added to § 3 b), the precision that a specific case does not necessarily have to limit the free circulation of a vehicle subject to the specific case. See also the explanatory note on Article 3a §1 e).

**Article 6a**  
**Recognition of procedural documentation**

**Article 6b**  
**Recognition of technical and operational tests**

The aim of these provisions is to exclude administrative duplication and repetition, particularly as regards technical assessments and tests.

**Article 7**  
**Construction prescriptions applicable to vehicles**

1. The admission is a ‘snap shot’ for which compliance with the rules is assessed at one point in time. After admission the keeper, ECM and RU are responsible for ensuring that the vehicle is well maintained and kept in a condition suitable for operation. In addition, Article 10a covers suspension and withdrawal of certificates after admission in case this is needed.
2. § 1 indicates the substantive law on which technical admission of vehicles must be based: the construction prescriptions contained in the Annexes of the APTU Uniform Rules (letter a), called UTPs, and the construction and equipment prescriptions contained in the “Technical” Annex of RID (letter b) and other specifications in order to fulfil the applicable essential requirements (letter c).
3. If the UTPs do not cover all the essential requirements or if there is a specific case or an open point in relation to the compatibility of the vehicle with the infrastructure, the national technical provisions applicable to these issues also have to be met. In this case, it must be kept in mind that the equivalence table should be applied and national technical provisions concerning open points that do not deal with compatibility with the infrastructure may only be checked by the Contracting State that first carries out the approval.
4. § 1 letter c): this letter was added by the 25<sup>th</sup> Revision Committee because the UTPs do not necessarily cover all aspects of a vehicle. Additional conformity check may be necessary for parts of the vehicle that are not covered by the UTP, but which may still have an influence on compliance with the essential requirements as set out in UTP GEN-A. This additional check has to be done only once; under the responsibility of the competent authority which is responsible for the first admission to operation. As the UTP exhaustively cover all aspects required for interoperability, consecutive admissions should not need such a check over and above UTP compliance.

5. § 1a: To compensate for the modification made by the 25<sup>th</sup> Revision Committee in §1 (deleting ‘remain admitted’), a new § 1 a) is added to indicate that the entities responsible for the vehicle after admission, i.e. the keeper, the ECM and the railway undertaking, should keep the vehicle compliant with the UTPs. Due to the fact that the admission procedures can take several months, it is recommended that the rules to be applied by the competent authority for a specific admission process are those that were in force at the date of the application and that no new rule is imposed during the subsequent process.
6. This provision does not expressly mention the requirement for technical compatibility with the infrastructure to be used and with the control systems: that goes without saying.
7. Technical admission is a necessary, but not in itself sufficient, condition for the operation of rolling stock. The rail transport undertaking operating a train must have, in addition, a right of access, an operating licence and a safety certificate, and must also meet various other conditions. These other requirements in addition to technical admission so that railway vehicles can be used in international traffic can be regulated, or are to be regulated, in other prescriptions.

#### **Article 7a Derogations**

This Article instructs the CTE to decide necessary rules for derogations and the related assessment methods.

#### **Article 8 Prescriptions applicable to railway infrastructure**

The procedure for admission of railway infrastructure to operation can remain subject to the national law. This, however, does not necessarily apply to the construction elements and equipment which are produced and technically approved in a Contracting State, but which are not used in that State, being used only in other Contracting States, e.g. rails, electric power supply installations. On this point, the APTU Uniform Rules and ATMF Uniform Rules are of importance for industrial and commercial policy.

#### **Article 9 Operation prescriptions**

1. According to Article 33 § 2 and § 4 letter (g) of the Convention, only the General Assembly could decide on an amendment to this Article, not the Revision Committee.
2. This article constitutes a link between, on the one hand, the technical specifications concerning the construction and operations of railway vehicles and, on the other hand, those concerning the construction and management of a railway infrastructure.
3. The Revision Committee considered as purely declarative, but nevertheless useful, the provisions obliging all rail transport undertakings to conform to the technical prescriptions of the Annexes of the APTU Uniform Rules, insofar as the provisions re-

late to the operation of a vehicle in international rail traffic (Report on the 15<sup>th</sup> session, p. 47/48). A subsequent proposal, seeking to withdraw this article, did not achieve the necessary majority (Report on the 23<sup>rd</sup> session, p. 22). The operating prescriptions are neither the basis nor the subject-matter of the technical admission of vehicles, although they are closely linked to international rail traffic safety.

4. § 2 contains the important obligation, for infrastructure managers in the Contracting States, to conform to the unified “rail” system, and also the technical prescriptions of the Annexes of the APTU Uniform Rules, insofar as these relate to the construction and management of the infrastructure.
5. At its 24<sup>th</sup> session, the Revision Committee decided not to publish the Uniform Technical Prescriptions (UTP) and validated technical standards adopted by the OTIF Committee of Technical Experts as Annexes to the text of APTU, but to publish them on the Organisation’s website. A consequential editorial amendment was that the references to the Annexes were replaced with references to the UTP.

### **Article 10<sup>2</sup>**

#### **Application and granting of Technical Certificates and declarations and related conditions**

1. According to § 1, technical certificates may be issued for types of construction or for individual vehicles.
2. Any entity which is capable of managing the obligation and tasks incumbent on an applicant as set out in the Article may be an applicant.
3. § 3 makes clear that the application may be made to the competent authority (Article 5) in any Contracting State, i.e. with no geographical link.
4. § 3a was added by the 25<sup>th</sup> Revision Committee. This paragraph has two objectives. Firstly to refer to declarations and UTP certificates of verification which have been deleted from § 3, and secondly to make explicit the principle that applicants may make use of the services of assessing entities having their place of business in other Contracting States.
5. § 4 concerns technical certificates for vehicles which, because of their limited degree of conformity, require complementary admissions in accordance with Article 6 § 4. The scope applied for must be described precisely. If this results in the need for admissions/assessments by several competent authorities, these must coordinate in order to speed up the approval process and minimise the cost for the applicant.
6. § 5 provides that admissions may not be carried out for profit and all costs associated with the admission procedure must be borne by the applicant. However, the latter

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2 Previously Article 10 was titled ‘Technical admission’. As a result of the decisions of the 24th session of the Revision Committee, in the context of which the definitions were restructured, the provisions of this Article were reworded and two new Articles 10a and 10b were introduced. .



only applies subsidiarily to the national law of the State in which the approval is issued.

The ‘not-for-profit’ principle applicable to the competent authority is necessary in order to avoid conflicts of interest.

Carrying out assessment for profit is possible, as the assessing entities may be private organisations. Nevertheless, the criteria set out in UTP GEN-E prohibit remuneration of staff responsible for inspections based on the number of inspections performed or the results of those inspections.

7. § 5a makes clear that all procedures concerning technical admissions/assessments must be non-discriminatory.
8. § 6: The assessing entity compiles the technical file, it does not check, correct and add information to the file. The applicant submits the technical file. The maintenance file is a creation of the ECM (the maintenance file is established and updated by the ECM). The maintenance file has to be in conformity with the documents related to the admission to operation and therefore with the technical file.
9. According to § 7, assessors must document the content and results of assessments in an Assessment Report.
10. In the admission of vehicles for which an admission of the type of construction is already available, § 8 requires that the applicant must attach the certificate of type of construction to the application and must demonstrate in an appropriate manner that the vehicles to be admitted correspond to the type of construction.
11. The first sentence of § 9 makes clear that in principle, technical certificates are to be granted for an unlimited period. However, this does not mean that it may also be used for an unlimited period. The second sentence reminds users that the scope of the certificate may be limited, although this is not at the discretion of the issuing body, but depends on the particular conditions.

### **Article 10a**

#### **Rules for withdrawals or suspensions of technical certificates**

1. § 1 deals with the procedure that applies to the withdrawal or suspension of technical certificates in the international arena.
2. §§ 2 and 4 distinguish between the suspension of an admission and its becoming void. Only in the case of a vehicle being put out of service does the admission become void, whereas in all other cases it is merely suspended (Report on the 15<sup>th</sup> session, p. 54/55). The 5<sup>th</sup> General Assembly also decided to make provision, in addition to that for the cases of “automatic” suspension of admission to operation as regulated in § 4, letters a) to c), for the possibility of a suspension decided by the competent authority (letter d), the more so since the question of whether the suspension could occur “automatically”, i.e., without an administrative notice, was a subject of dispute (Report, pp. 156-160).

3. Provisions on the withdrawal of the admission to operation, which, according to § 6, also apply by analogy to the admission of type of construction, are given in §§ 2, 3 and 5, and those concerning suspension (of the validity/use) of these certificates are given in § 4.
4. Reasons for a mandatory suspension are
  - insufficient technical maintenance of the vehicle (inspections, servicing, etc.),
  - failure to observe the order to present a vehicle with severe damage, and
  - non-compliance with the provisions of ATMF, the UTPs or the national provisions on which the approval is based.

Reasons for a possible withdrawal are

- non-compliance with the applicable technical requirements in accordance with the UTPs etc.
  - in some cases failure to correct any deficiencies causing non-compliance, and
  - non-compliance with the conditions imposed for a limited approval.
5. According to § 3, only the body that has granted the design type certificate or the certificate of operation may withdraw it (as opposed to suspension).

### **Article 10b**

#### **Rules for assessments and procedures**

1. § 1 authorises the CTE to adopt mandatory rules for the assessments and procedural rules for technical admission.
2. If there are supplementary rules within the Contracting States or at EU level, § 2 requires that these be notified to the Secretary General so that the CTE can examine them and they can be published.

### **Article 11**

#### **Certificates**

1. §§ 1 to 3 stipulate that the technical admission must be certified by a document and they prescribe the content of documents relating to an admission of a type of construction and to an admission to operation.
2. According to § 1, separate certificates must always be issued for the Design Type Certificate and the Certificate of Operation, but according to § 4, one certificate of operation may be issued for several vehicles of the same design type.
3. The details of what both certificates must contain are laid down in §§ 2 and 3.
4. § 2 letter b): The maintenance file is a creation of the ECM and is not part of the technical certificates. The maintenance file should be set up in accordance with the

technical file, which is part of the documentation for admission. The technical file contains all elements relating to servicing, monitoring, adjustment and maintenance.

5. The term “manufacturer” must be understood as also referring to an association of manufacturers; the applicant is free to apply for admission of a type of construction on his own behalf only or, if need be, also on behalf of other manufacturers (Report on the 15<sup>th</sup> session, p. 59).
6. § 6 stipulates the languages in which the certificates must be printed. A certificate must be prepared in one of the working languages of OTIF (currently German, French and English) and be available in printed form.
7. §§ 7 – 9 prescribe that when the right of disposal over the vehicle changes, the certificates originally issued to the applicant must be handed over.

### **Article 12** **Uniform formats**

1. Mandatory uniform formats of the certificates, declarations and assessment reports specified in ATMF should be prepared and adopted by the CTE. The CTE may also recognise other existing formats as equivalent, provided they contain at least the same information.
2. § 1 makes provision for the Organisation to prescribe uniform model of certificates of admission of a type of construction and certificates of admission to operation.
3. § 2 The Committee of Technical Experts, as a body of the Organisation in accordance with Article 20 of COTIF, has the authority to devise and adopt these model certificates.

### **Article 13** **Registers**

1. The CTE has to decide on the following details (§ 4), although consideration must be given to structures that already exist in the Contracting States (national vehicle registers NVRs) or in the EC (ERA) (§ 5):
  - a) functional and technical architecture of the data bank,
  - b) when and how the required data must be provided,
  - c) access rights,
  - d) data bank structure and
  - e) other administrative and organisational provisions.
2. The data bank may be based on decentralized electronic registers in the Contracting States, including National Vehicle Registers (NVR), but the information should be retrievable via a central search engine; the data bank and its operating rules need

to be coordinated with the National Vehicle Registers set up by EU Member States under Commission Decision 2007/756/EC.

#### **Article 14** **Inscriptions and signs**

1. By way of supplement to Article 11, §§ 2 and 3, which regulate the content of certificates, Article 14 prescribes the inscriptions and signs on vehicles which must make it possible to see at a glance whether, and in what condition, the vehicle concerned has been admitted to operation in international rail traffic.
2. The regulation merely states the principle that the inscriptions and signs prescribed in the Annexes of the APTU Uniform Rules must be applied. The Annexes of the APTU Uniform Rules were intended, essentially, to repeat the specifications contained in No. 3.1.16 of the International Convention on the Technical Unity of Railways (UT), in the terms of the April 1986 draft, and in Nos. 5.1, 34.1.1, 34.1.2 and 34.2.3 of RIC and in Nos. 34.1, 34.1.1, §§ 2 and 3 and 34.1.3 of RIV.
3. The authority granting the admission to operation must ensure that the signs and inscriptions are marked on the vehicle and that the vehicle number is registered in the NVR (Article 13).

#### **Article 15** **Maintenance**

1. § 1 sets out the objectives and elements of maintenance. In accordance with common practice in several Contracting States and in order to make more explicit the responsibilities of the keeper, the keeper should be responsible for designating an ECM for his vehicles.
2. According to § 2, it is up to an accordingly instructed body (Entity in Charge of Maintenance – ECM), which must be registered in the data bank, to organise the maintenance of each vehicle. Such a body is also required according to the law of the EU (see Article 14a of the Railway Safety Directive 2004/49/EC).
3. §§ 3 to 5 contain provisions regarding the interaction between the ECM and the operating railway undertakings, the Maintenance Record File and the possibility to specify further details in Annexes to the ATMF.
4. § 3: In accordance with Article 11 § 8, the keeper is the entity that holds the technical file which contains elements relating to the instructions concerning servicing, constant or routine monitoring, adjustment and maintenance.

The type of information to be exchanged between the railway undertaking and the ECM is set out in Annex A to ATMF; ECM regulation Annex III point 7. This information may be transmitted via the keeper.

### **Article 15a**

#### **Train composition and operation**

1. Article 15a was introduced by the 25<sup>th</sup> Revision Committee.
2. § 1 letter d): The words ‘..such as those...’ indicate that there may be other prescriptions relating to operation, e.g. national regulations applicable to international rail traffic.
3. § 2 ‘Entities other than a rail transport undertaking’ refers for example to infrastructure managers that operate on-track machinery for track maintenance purposes. When such equipment is not in transport mode, but in working mode on non-operational tracks, these rules do not apply. In such a situation these vehicles are considered as maintenance or inspection machines instead of trains and are not therefore in the scope of these rules.
4. § 3 By analogy with Article 15 § 3, the keeper is the entity that holds the technical file which contains elements relating to conditions and limits of use concerning servicing and constant or routine monitoring.
5. § 4 In order to fulfil its responsibilities as set out in Article 15a, the railway undertaking should have correct and sufficient information about the characteristics of the infrastructure it will operate its trains on. It is the task of the infrastructure manager to supply such information. If there is more than one railway undertaking making use of its infrastructure, the infrastructure manager should make this information available to all railway undertakings.

### **Article 16**

#### **Accidents, incidents and severe damage**

1. According to § 1, in case of accident, incident or severe damage, all parties involved, specifically the IMs, keepers, ECMs and RUs, are required
  - to take measures to ensure the safety of railway traffic, respect for the environment and public health and
  - to establish the causes.
2. § 1 a) supplements § 1 to the effect that the measures referred to must be coordinated, primarily by the IM, and the investigations referred to and any investigations commissioned by the State must be considered as independent from each other.
3. § 2 says that damage is considered to be “severe” if its repair takes at least 72 hours or costs at least 0.18 million SDR. SDR means the currency of the International Monetary Fund (IMF) which according to Article 9 of the Convention is the unit of account referred to in its Appendices. According to § 5, the CTE may change the minimum amount referred to in § 2.
4. § 3 contains the obligation – which, within the meaning of § 1 a), mainly concerns

the IM – to notify the authority or body (Article 5) which admitted the vehicle to circulation of any accidents, incidents or severe damage. That authority or body may require the damaged vehicle to be presented, possibly already repaired, for examination of the validity of the admission to operation and to decide whether the procedure concerning the granting of admission to operation must be repeated.

5. § 4 deals with accident assessment and resulting questions with a view to amending the construction and operating provisions of the UTPs and measures concerning technical certificates affected by this. The CTE has a key role in this respect.

### **Article 17** **Immobilisation and rejection of vehicles**

1. The Secretariat<sup>3</sup> draft of 19 December 1997 included an exhaustive list of the grounds and conditions allowing competent authorities, other rail transport undertakings or infrastructure managers to reject a railway vehicle admitted for international traffic. Letters a) to e) of the aforementioned draft had repeated the provisions of Nos. 6.2, 6.4.1, 6.4.2, 6.4.3, 6.4.4, 6.4.5 and 34.1.3 of RIC and of Nos. 2.2, 3.3.1, 3.3.3, 3.4, 3.6, 14.2 and 34.1.2 of RIV. The Revision Committee, however, decided to give this article a more general and more positive wording (Report on the 15<sup>th</sup> session, p. 69; Report on the 18<sup>th</sup> session, p. 53/54).

2. Subject to the exceptions in §§ 2 and 3, § 1 lays down as a general rule that railway vehicles that meet all the requirements that apply to them may not be immobilised or rejected.

§ 2 makes clear that authorities (and their organs) entitled to inspect vehicles may immobilise a vehicle if non-compliance with requirements is suspected, although the examination to establish certainty should be carried out as quickly as possible and in any case within 24 hours.

§ 3 deals with ordering immobilisations and rejections, which is in any case permissible, as a result of unresolved questions between Contracting States concerning the qualification of a competent authority (Article 5 § 7) and consequences arising from the results of an accident assessment (Article 16 § 4).

3. The 25<sup>th</sup> Revision Committee clarified that Article 17 should not prejudice the responsibility of the railway undertaking as defined in Article 15a.

ATMF Article 17 § 1 does not mean that every rail transport undertaking must be capable of using every type of vehicle. An admitted vehicle incompatible with the operational environment or fleet of a rail transport undertaking is not prevented from running, but as it simply does not satisfy the technical or operational prerequisites for this rail transport undertaking to operate it, this rail transport undertaking is not in a position to operate it. This means that a rail transport undertaking may decide under the conditions set out above, and taking account of its responsibilities under Article

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<sup>3</sup> At that time the “Central Office”

15a, that it is not able to operate a particular type of wagon that has been legally authorised/admitted for service.

### **Article 18** **Non-compliance with prescriptions**

1. Apart from the consequences in accordance with Article 10a with regard to technical certificates, for the legal consequences of failure to comply with the prescriptions, reference is made to national law (including the rules relating to conflict of laws), i.e.
  - to the law of the Contracting State in which the IM has his place of business, for the civil and penal consequences concerning infrastructure, and
  - in all other cases to the law of the Contracting State whose competent authority (Article 5) issued the first admission to operation.
2. This is a so-called *global reference*, i.e., reference is not made directly to the substantive law of the Contracting State concerned but, in the first place, to its rules on the conflict of laws. These rules determine the substantive rules which are ultimately applied.

### **Article 19** **Transitional provisions**

1. § 2 refers to 1.1.2011 as it was the date of entry into force of the 2011 version of ATMF.
2. In the 2011 version of ATMF, the approval by a railway undertaking which was a contracting party to RIV or RIC was considered as an approval by the State in the case where there was no other authority with the responsibility for approving railway vehicles at the time of this approval by the railway undertaking. This principle has been removed by the 25<sup>th</sup> Revisions Committee.
3. The entry into force of ATMF on 1.1.2011 (and of the Interoperability Directive in the EU on 19.7.2008) transferred competence for approving/admitting vehicles from the railway companies to State level. When the ATMF of 2011 entered into force, there were no uniform technical prescriptions (UTPs) available on which the admission could be based. The admission therefore had to be carried out State by State according to ATMF Art. 6(4). Even in the absence of harmonised UTP rules, the principles of ATMF applied fully in each Contracting State, which means that the State, rather than railway companies, takes responsibility for the admission of vehicles.
4. The date 19.7.2008 on which the Interoperability Directive entered into force in the EU has no specific meaning outside the EU, therefore this date cannot be taken over in the same spirit in ATMF. Doing otherwise would create the risk that correct decisions taken and correct procedures carried out between 19.07.2008 and 01.01.2011 would become questionable. Such retroactive application should be avoided.
5. The entry into force of UTPs from 2012 onwards introduced harmonised requirements. The Contracting States should implement these UTPs in their railway sector.

6. ATMF represented a fundamentally different approach to what was set out in RIV and RIC. With the application of ATMF, Contracting States take responsibility towards each other for the vehicles they admit to operation; this responsibility cannot be covered by the sole application of RIC and RIV. RIV/RIC are not compatible with ATMF and even contradict some of the principles of ATMF. Therefore, after the entry into force of ATMF on 1.1.2011, RIV/RIC can no longer be the sole basis for admission, unless provided otherwise in the applicable UTP.
7. If future decisions taken by the CTE create the need for further transitional provisions, the CTE may adopt them itself in accordance with § 7, i.e. without the Revision Committee having to make an addition to Article 19.

### **Article 20** **Disputes**

Article 20 assigns to the Committee of Technical Experts a mediation role when two or more Contracting States of the ATMF Uniform Rules disagree concerning the technical admission of railway vehicles. Furthermore, such disputes can also be submitted to the arbitration tribunal provided for in Title V of COTIF.