

OTIF



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LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTER-
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Justification document for the

Revision of Appendix G (ATMF UR)

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**Uniform Rules concerning the Technical Admission
of Railway Material used in International Traffic
(ATMF - Appendix G to the Convention)**

Introductory note

This document provides justifications for the proposed amendments to Appendix G to the Convention as proposed to the 25th session of the Revision Committee. The related document “*Explanatory remarks for the Revision of Appendix G (ATMF UR)*” provides additional elements which may serve as explanation and interpretation of the revised Appendix G and which are intended to be included in the Explanatory Report. The Explanatory report will be discussed and voted as a separate document in the Revision Committee.

General justifications

The primary trigger for the revision of ATMF was the conclusions reached by the ad-hoc safety subgroup, which had been validated by the Committee of Technical Experts in June 2013. These conclusions resulted in a new draft Article 15a and a modified Article 17 § 1.

In addition to these two modifications, and to take advantage of the opportunity of a revision, the entire draft revised ATMF is being brought into line with the latest developments. This concerns elements of consistency with recent European Union law, updated references to other OTIF regulations, etc.

Compared to the 2011 version of ATMF, the revised version will make more explicit the functions of and mutual relations between

- Contracting State,
- Competent authority and
- Assessing entity.

Furthermore, the revised version harmonises terms. The 2011 version of ATMF uses different terms for the same concept, such as “bodies recognised as suitable”, “the bodies”, “authority carrying out technical admission”, “the bodies responsible for carrying out assessments”, “approving authority”. Where feasible these have been replaced by either “competent authority” or “assessing entity”, as appropriate.

In order to harmonise the use of French terminology between the European Union and OTIF, in the French version of ATMF the term for entity in charge of maintenance “entité en charge de la maintenance (ECM)” has been changed to “entité chargée de l’entretien (ECE)”. For the same reason the French term for “technical file” has been changed from “fichier technique” to “dossier technique” and “fichier de maintenance” has been changed to “dossier de maintenance”.

The term ‘other railway material’ seems to serve no practical purpose. As a first step, the proposal is to delete all references to ‘other railway material’ insofar as this is in the competence of the Revision Committee. This concerns all Articles except 1, 3 and 9. As a second step ‘other railway material’ should be deleted from Articles 1, 3 and 9, which are in the competence of the General Assembly.

The changes which are not covered by this introductory note are explained in the rest of this document and in the related document “*Explanatory remarks for the Revision of Appendix G (ATMF UR)*” with reference CR 25/8 Add.2.

Justification for the amendments Article by Article

Article 2 Definitions

- ab) Accreditation is added as a definition, as it is referred to in Articles 5 and 15. The definition is based on the definition used in the EU.
- b) For clarity the link between ‘admission of a type of construction’ and the ‘Design Type Certificates’ should be established.
- c) For clarity the link between ‘admission to operation’ and ‘Certificate of Operation’ should be established.

In the context of harmonising the terminology in German, "Betriebserlaubnis" has been changed to "Betriebszulassung" in the definitions and throughout Appendix G.

- cb) In order to make clear that in the German version, the term "Prüfzertifikat" corresponds to the term "Prüfbescheinigung" used in the EU, "Prüfbescheinigung" is included in the definitions as an alternative to "Prüfzertifikat".
- f) The definition of ‘declaration’ is deleted because it is no longer used in the original context (Article 10 § 3). Keeping the term ‘declaration’ would be ambiguous as ‘Declaration of verification’ is used in UTP GEN-D and is a very different concept.

‘Declaration’ is replaced by “Design Type Certificate” which is now consistently used throughout ATMF, particularly in Articles 10, 10a and 11.

- h) For two reasons the definition of ECM is deleted:

The requirements for ECM are clear from Art.15 and the ECM regulation (Annex A to ATMF).

The original definition made the existence of the ECM conditional on registration in the ECM register. Although such registration is still mandatory in Article 15, the NVR is not operational in all CSs. The absence of an operational NVR should not result in ambiguity with respect to the ECM responsibilities.

- n) In the French version, the definition of ‘keeper’ has been brought in line with the definition in EU Directive 2008/110/CE.
- o) It should be clarified that the maintenance record file is part of the maintenance file. This is relevant to Articles 10, 11 and 15.

In line with EU terminology and to make future transpositions from TSI into UTP easier, in the German version, "Instandhaltungsverzeichnis" has been changed to "Instandhaltungsunterlagen".

- r) UTPs must be explicit on the open points, as it must be clear to all what the open points are.
- s) The term ‘other railway material’ seems to serve no practical purpose. All movable railway material used in international traffic is covered by ‘railway vehicle’.
- t) To be more in line with EU Directive 2001/14 EC, the definition of ‘rail transport undertaking’ is modified.

The identical concept of ‘railway undertaking’ is added because this term is used in several places in the ATMF and the Convention.

- wa) Recognition includes two different concepts:

Recognition of a national body is used in Articles 5 § 3, 13 § 2, 15 § 2.

Recognition of a certificate is used in Article 6a, 6b.

- ya) Reference to RID should be superfluous. RID is part of the same Convention as ATMF and as such, it is known about.
- aa) It is important to stress that it is not the ‘requirement for it that validates a specific case, but the fact of its being indicated in the UTP.
- dd) The definition of ‘technical certificate’ is deleted, as both the design type certificate and certificate of operation are included with separate definitions. It is clear from e.g. Article 11 that technical certificates concern both.
- ee) In line with EU terminology and the terminology used elsewhere in OTIF, and to make future transpositions from TSI into UTP easier, in the German version, "technisches Verzeichnis" has been changed to "technisches Dossier".
- ee1) The definition of train is needed, in particular for the new Article 15a.

Article 3a

Interaction with other international agreements

- § 3 As § 3 is about the application of EU law, it is better to use the EU terminology. ‘Authorised for placing in service’ is the EU terminology; ‘admission to operation’ is an OTIF term.
- § 5 With the deletion of the definition of Entity in Charge of Maintenance (ECM), formerly Article 2 h), this paragraph is the first in which the concept of ECM is mentioned. A footnote indicates that the requirements linked to ECM are set out in Article 15. In the French version an incorrect reference to the European Union’s regulation has been corrected.

Article 4 Procedure

§ 1

- b) 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 (module SD/SF), it is not really a simplified procedure. This is a standard procedure and the word ‘simplified’ is ambiguous if it is not further clarified, so it is deleted.

§ 2

It seems important to introduce here the basic procedure for UTP assessment. It can then be referred to in e.g. Article 10.

The competence of the CTE to amend or revoke assessment procedures and the content of UTP certificates is not explicitly covered by APTU Article 8 § 4.

By analogy with European Union law and in accordance with UTP GEN-D, the Intermediate Statement of Verification (ISV) should only apply to subsystems, not to elements of construction.

Article 5 Competent authority

§ 2

‘Declaration’ is deleted because it is no longer used in the original context (Article 10 § 3). ‘Declarations’ is replaced by ‘certificates of verification’, as this is the document issued by the assessing entity.

§ 3

The deleted texts in a)-h) are covered by UTP GEN-E.

§ 5

All bodies which have competences defined in the ATMF should be notified to the Secretary General.

Article 6 Validity of technical certificates

§ 3

The concept of ‘free circulation’ is deleted and replaced by ‘validity of the admission’. The reason for this modification is that UTP compliance does not automatically result in ‘free circulation’. The concept of ‘free circulation’ is kept under b), with reference to conditions specified in the UTP. This is more in line with what happens in practice, e.g. for freight wagons where the conditions for free circulation are set out in Appendix C to the UTP WAG.

Article 7 Prescriptions applicable to vehicles

§ 1

The original text is ambiguous with respect to the words ‘and remain admitted’. ‘remain admitted’ seems to indicate there is a continuous process linked to admission, which is not the case. There is no such thing as ‘remaining admitted’. See also Art.10 § 9.

- § 1a To compensate for the modification in §1 (deleting ‘remain admitted’), this paragraph is added.

Article 7a
Derogations

As of 1.1.2014, ATMF Annex B covers derogations.

Article 8
Prescriptions applicable to railway infrastructure

The modifications are made by analogy with the modifications to Article 7.

Article 10
Application and granting of technical certificates and declarations and related conditions

- § 2 The list of possible applicants is deleted because the list could be misinterpreted as being exhaustive, which was not the intention.
- § 3 For consistency and clarity the issuing of technical certificates (in the admission domain) and the issuing of declarations and UTP certificates of verification (in the assessment domain) should be separated. § 3 now only refers to technical certificates.
- § 5 “Granting” is the word used in the corresponding definition. This also provides a clearer distinction from carrying out the assessments (by the assessing entity) which may be done for profit (e.g. EU Notified Bodies).
- § 8 A person who applies for a certificate is an applicant.

Consequently, the certificate is issued to the applicant, see Art.11 § 7.

For new vehicles, which must comply with the UTP in accordance with Article 7, the UTP certificate is the correct document to confirm that a vehicle is built according to a type.

- § 10 The concept of ‘first admission’ was a little ambiguous here, because the clause concerns a type that was already admitted. It is replaced with ‘the admission of new vehicles according to that type’.
- § 11 In the case where a vehicle does not fully comply with the UTPs, separate admission is necessary in each CS.

Article 11
Technical Certificates

Declarations should be deleted from the title of the Article because the Article is about certificates only. Declarations by the applicant are not mandatory in COTIF (as set out in more detail in UTP GEN-D).

- § 2

h) This specification is in line with the uniform format of certificates (Design Type Certificate & Certificate of operation) as defined in document A 93-01/2.2012.

§ 7 Technical certificates (Design Type certificate & Certificate of Operation) are issued by the Competent Authority to the applicant. Declarations should be deleted here, as the applicant may also issue declarations itself in the scope of UTP GEN-D.

§ 8 The maintenance record file is part of the maintenance file in accordance with Article 2 o) and does not therefore have to be mentioned here.

Article 13 Registers

§ 1 In this paragraph only the reference to the National Vehicle Register (NVR) is kept. The NVR is set up under the responsibility of each CS.

The elements related to the creation of a type register, by analogy with the European Register of Authorised Types of Vehicles (ERATV), are deleted. At this time, there does not seem to be a clear need for such a type-based register in the non-EU OTIF Contracting States. In addition, it is questionable whether a separate OTIF type-based register coexisting with ERATV would be an efficient solution.

The modifications to § 3 give competences to the CTE in terms of deciding on the creation of such a type-based register if need be.

§ 1a The ECM register is made explicit.

§ 1b The VKM register is made explicit.

§ 2 The requirement for publishing competent authorities etc. is specified in Art. 5 § 5 and is therefore deleted from Article 13.

§ 4 It is made explicit that the CTE is not only competent to establish the architecture of registers, but also to modify or withdraw them.

§ 7 Deciding on fees for the use of data banks should be fully in the competence of the CTE.

Article 14 Inscriptions and signs

§ 1 The requirement in ATMF 2011 that vehicles must bear a sign to indicate that they have been admitted to operation is not complied with in practice. This has illustrated that the definition of vehicle markings should be dealt with in UTPs and not in ATMF.

§ 2 The requirement deleted from § 1 is transferred to § 2 as a competence of the CTE.

Article 15

Maintenance of vehicles

§ 1 The required permanent compliance of vehicles with UTPs is now dealt with in Article 7 § 1a; the analogous requirement is therefore deleted from Article 15.

§ 2 Since ATMF 2011, additional ECM rules contained in Annex A to ATMF have been adopted and are in force as of 1 May 2012. The CTE retains the competence to amend these ECM rules or to adopt new ECM rules.

The deletion or use of the word ‘external’, or alternatively ‘independent’, was discussed at length. The conclusion of this discussion was that neither external nor independent should be used, as the requirements for the certification body are in Annex A to ATMF and it is therefore sufficient to refer to Annex A.

This last two sections of § 2 of ATMF 2011 are obsolete due to the entry into force of Annex A.

§ 3 The responsibilities for railway undertakings are now dealt with in the new Article 15a and are therefore deleted from Article 15.

The direct responsibility of railway undertakings for vehicle maintenance is deleted from § 3, as it is the responsibility of the ECM to ensure that vehicles are in a safe state of running by means of a system of maintenance as set out in § 2. The task of the railway undertaking is to ensure that each vehicle it operates has an ECM assigned to it in accordance with the new Article 15a § 1 e).

§ 5 This § is deleted as it is fully covered by Annex A to ATMF; ECM regulations. The competence of the CTE is transferred to § 1.

Article 15a

Train composition and operation

The new Article 15a defines the tasks and responsibilities of the railway undertaking with respect to the use of vehicles and operation of trains.

The Article corresponds to the conclusions of the ad-hoc safety subgroup, which reported its results to WG TECH and whose conclusions were validated at CTE 6.

§ 1 The principles are in line with the requirements incumbent on railway undertakings operating in the EU according to the EU Safety Directive 2004/49/EC and the EU Technical Specifications for Interoperability concerning operations and traffic management (OPE TSI).

Article 18

Non-compliance with the prescriptions

§ 2 In the German version an editorial omission is corrected by adding the acronym “ETV” in the sentence: *„Die zivil- und strafrechtlichen Folgen, die sich aus der Nichtbeachtung dieser Einheitlichen Rechtsvorschriften sowie der ETV ergeben...“*

Article 19
Transitional provisions

§ 1 This paragraph is deleted because it was considered ambiguous as it seemed to suggest that Article 3 § 1 did not apply to new vehicles, besides that it was just an introduction to the following §§.

§ 2a As the content of possible agreements covered by this clause are not known, they should not be given special status.

It is more neutral to say that these rules do not affect the original agreement than to state that vehicles built before 2011 are deemed to be admitted. This way the bilateral and multilateral agreements are not affected and in particular, ambiguity is avoided in case of agreements with a limited validity.

§ 3 To be in line with § 5.

§ 5 ATMF covers not only safety related aspects, but also aspects related to interoperability. The sentence is now in line with the EU Interoperability Directive 2008/57/EC, Article 6(9).

§ 7 The word ‘other’ could signify that the CTE may change the content of Article 19, which is not in line with the Convention, because changing ATMF Article 19 is in the competence of the Revision Committee. ‘Additional’ instead of ‘other’ seems a more appropriate word here.