

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTER-
NATIONAL CARRIAGE BY RAIL**

OTIF/RID/CE/2012/8

26 March 2012

Original: French

RID: 51th Session of the Committee of Experts on the Transport of Dangerous Goods
(Berne, 30 and 31 May 2012)

Subject: Entity in Charge of Maintenance (ECM)

Proposal transmitted by Belgium

Summary: Introduction of the concept of ECM into RID.

Related document:

- INF. 3 (UIP) from the 12th session of the working group on tank and vehicle technology;
- INF.12 (ERA) from the 50th session of the RID Committee of Experts;
- Document OTIF/RID/CE/2011-A (report of the 50th session of the RID Committee of Experts), paragraphs 84 to 87.

Introduction

1. At the 12th session of the working group on tank and vehicle technology, UIP submitted a document which drew attention to a potential conflict between RID and the European legislation concerning the allocation of responsibility for wagon maintenance.
2. This issue was also discussed at the 50th session of the RID Committee of Experts.

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3. Paragraph 86 of report OTIF/RID/CE/2011-A says that the RID Committee of Experts saw no conflict between the ECM Regulation and RID. Nevertheless, the majority of delegates recommended that 1.4.3.5 should refer to the European Commission's ECM Regulation and the technical Appendices to COTIF, indicating that the obligations set out in 1.4.3.5 are deemed to be met if the provisions of the said Regulation or technical Appendices are applied.
4. Belgium said it was prepared to submit a document along these lines (see paragraph 87 of report OTIF/RID/CE/2011-A).

Analysis of the legislation

5. Article 14a of Directive 2004/49/EC on rail safety, as amended by Directive 2008/110/EC and Article 15 § 2 of the Uniform rules concerning the Technical Admission of Railway Material used in International Traffic (ATMF – Appendix G to COTIF) says that an entity in charge of maintenance has to be assigned to each vehicle. This entity has to be registered in the national vehicle register. This ECM must ensure that the vehicles it maintains are in a "safe state of running" by means of a system of maintenance.
6. Article 4 (4) of this same Directive prescribes that each manufacturer, maintenance supplier, wagon keeper, service provider and procurement entity must ensure that rolling stock, installations, accessories and equipment and services supplied by them comply with the requirements and the conditions for use specified, so that they can be safely put into operation by the railway undertaking and/or infrastructure manager.
7. According to Regulation (EU) 445/2011, for freight wagons the ECM must be certified by 31 May 2013 at the latest.
8. Article 5 (1) of Regulation (EU) 445/2011 prescribes that each railway undertaking must ensure that the freight wagons it operates have a certified entity in charge of maintenance and that the use of the wagon corresponds to the scope of the certificate.
9. With regard to dangerous goods in connection with the issue of wagon maintenance, Annexes II, IV and V of Regulation (EU) 445/2011 refer to this in several places.
10. Belgium believes that the tasks set out in RID 1.4.3.5 concerning tank maintenance and inspections are the responsibility of the ECM of the wagon and that it is therefore necessary to refer to the ECM in RID 1.4.3.5 (see proposal 1).
11. Belgium also wonders whether it is necessary to specify the obligation set out in Article 5 (1) of Regulation (EU) 445/2011 in the carrier's obligations (see proposal 2).

Proposal 1

12. Add a definition of "*Entity in Charge of Maintenance*" to 1.2.1:

"Entity in charge of maintenance (ECM)¹" means the entity that is in charge of the maintenance of a wagon, and is registered as such in the vehicle register according to Article 13 of Appendix G to COTIF (ATMF) and Article 33 of Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community;

¹ In accordance with Article 14a of Directive 2004/49/EC on rail safety, as amended by Directive 2008/110/EC and Article 15 § 2 of Appendix G to COTIF (ATMF), a certified entity in charge of maintenance must be assigned to each wagon."

13. Replace the current 1.4.3.5 with the text proposed below (amendments are underlined):

"1.4.3.5 Tank-wagon operator

1.4.3.5.1 In the context of 1.4.1, the tank-wagon operator shall in particular:

- (a) ensure compliance with the requirements for construction, equipment, ~~tests~~ and marking;
- (b) ensure compliance with the requirements for the inspection of tanks;
- (c) ensure that the maintenance of tanks and their equipment is carried out in such a way as to ensure that, under normal operating conditions, the tank-wagon satisfies the requirements of RID until the next inspection;
- d) have a special check made when the safety of the shell or its equipment is liable to be impaired by a repair, an alteration or an accident.

1.4.3.5.2 However, in the cases of 1.4.3.5.1 (b), (c) and (d), the operator may rely on the instructions provided by the entity in charge of maintenance of the wagon."

Proposal 2

14. Insert a new 1.4.2.2.2 as follows:

"1.4.2.2.2 The carrier shall ensure that the certificate of the entity in charge of maintenance of the tank-wagons [or battery-wagons] which he uses for the transport of dangerous goods covers the scope of activity "tank-wagons for dangerous goods"."

15. Amend the current 1.4.2.2.2 to read as follows:

"1.4.2.2.3 However, in the cases of 1.4.2.2.1(a), (b), (e) and (f) and of 1.4.2.2.2, the carrier may rely on the information and data made available to him by other participants."

16. Renumber the subsequent paragraphs accordingly.

17. Add a transitional measure 1.6.3.x:

"1.6.3.x The obligation under 1.4.2.2.2 shall apply from 1 June 2013."
