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DISCUSSIONS

Mr. **Karl Erik Raff** opened the 4th session of the Committee of Technical Experts (CTE) and welcomed all the participants. The documents prepared by the Secretariat for this session, most of them for adoption, covered almost a thousand pages. The task for this session was to discuss the content of all the documents and to reach agreement on the texts, as users of these regulations were repeatedly requesting that OTIF regulations equivalent to the EU regulations be put in place. The most frequent request was for the regulations on freight wagons, including all the provisions relating to them.

The invitation with the provisional agenda for this session was sent out on 14 June 2011. No proposals to include other items on the agenda had been received from Member States (MS) or invited observers.

The **deputy Secretary General** (Mr. Kafka) welcomed the participants to this first session of an OTIF organ after 1 July 2011, the date on which the agreement concerning the accession of the EU to OTIF had come into force. This agreement contained mutual rights and obligations which had an indirect or direct influence on the sessions of the OTIF organs. The agreement followed two essential principles: that the EU's accession should support OTIF in pursuing its aims of promoting, improving and facilitating the technical and legal aspects of international rail transport and that it should establish the precedence of EU law for traffic which takes place exclusively between the EU Member States or Member States that apply EU law based on their international agreements with the EU. It was clear that applying these two principles would not be an easy task and it would be necessary to reach solutions through objective discussions. The **deputy Secretary General** said that if possible, he would attend the whole session, not only to help in the resolution of legal questions, but also to support all efforts aimed at finding acceptable and viable solutions to open questions. As a lawyer, he was aware of the danger that without wide support for their authority, legitimacy and practicability, and without the will of those concerned to apply and implement them, the rules would just be documents without any real effect. Against this background, he wished the meeting productive and objective discussions and hoped it would adopt useful proposals for solutions which would result in the adoption of mandatory rules, which would in turn result in safer technical conditions in international railway traffic beyond the EU borders.

The **representative of the EU** (Mr. Grillo) expressed his satisfaction at being a member of the CTE after many years of cooperation. He encouraged CTE delegations from non-EU OTIF MS to contact him informally if they had any questions concerning this Committee or other questions relating to the railways. He congratulated the Secretariat on its excellent and high quality preparation of the documents for this session, especially considering the limited resources of the OTIF Technology section. On 30 August the preliminary EU position on the documents had been sent to the Secretariat and since then the available time had been used to check the EU comments and prepare constructive proposals for solutions. The EU was prepared to adopt all the documents which were ready for adoption.

1. Approval of the agenda

In view of the time available for this session, the representative of the EU did not consider item 9, "Consultation of non-EU OTIF MS on two TSIs" as a priority, bearing in mind also that these documents were still under discussion in the EU. As this was not an issue for adop-

tion, he recommended discussing this at the next session of the standing working group WG TECH.

The **Secretariat** agreed. The item had been placed on the agenda of CTE because the non-EU OTIF MS had been consulted on the TSI Operation & Management (merged) and TSI Freight wagons revised, and the consolidated version of the non-EU OTIF MS comments had been sent to the Commission on 7 July 2011. The reply from the Commission dated 25 July 2011 had stated that ERA would analyse the comments and take them into account as appropriate.

It was agreed unanimously to amplify item 5.4 to include UTP GEN-G (for adoption), based on document UTP GEN-G COMMON SAFETY METHODS (CSM) ON RISK EVALUATION AND ASSESSMENT (RA), as that regulation was an integral part of the package concerning freight wagons.

2. Presence and quorum

16 MS attended the session; 7 MS were represented by another MS present at the session (Austria and Czech Republic by Slovakia, Denmark and Finland by the Netherlands, Germany by France, Liechtenstein by Switzerland and Slovenia by Croatia). For general issues, the quorum required 21 MS to be present or represented. The quorum was exceeded by two. The “restricted” quorum for specific questions concerning items 5, 6, 7 and 11.1 required eleven MS to be present or represented. This quorum was also reached.

In an e-mail dated 15 July 2011, **the representative of the EU** informed the Secretariat that in accordance with Article 6 of the EU accession agreement, items 5, 6, 7 and 11.1 concerned matters of EU exclusive competence. On these items the EU would exercise the votes of the EU OTIF MS that were parties to the Convention.

3. Election of chairman

The **Secretariat** proposed Switzerland, which had already chaired the Committee’s 1st, 2nd and 3rd sessions, to chair this session again, in the shape of Mr Roland Bacher. Mr. Bacher had successfully chaired the last session of CTE and ten consecutive meetings of WG TECH.

The **CTE** unanimously elected Switzerland, in the shape of Mr Roland Bacher, to chair this session.

The **Chairman** thanked the meeting for the confidence it had placed in him to chair this session. The issues prepared for this session concerned public health and safety and care of the environment. The aim was to achieve properly functioning, high performance cross-border freight traffic with interoperability, safety and free access to the market in the whole OTIF area through the mutual recognition of the technical approval of vehicles. This should result in better performance and economic efficiency through the elimination of costs caused by the duplication of checks, and without discrimination among the OTIF Member States. There were around one million freight wagons in the OTIF area, seven hundred thousand of them in the EU.

4. Report from the Committee of Technical Experts’ working groups

The **Secretariat** gave a brief presentation on the activities of the standing working group WG TECH since the 3rd session of CTE (February 2009).

Conclusion:

The **CTE** noted the report on the activities of the CTE standing working group WG TECH since the 3rd session of CTE.

5. Uniform Technical Prescriptions UTPs (formerly called APTU Annexes) – for adoption

The **Chairman** thanked the EU for sending its comments on the documents proposed for adoption. The Secretariat and Chairman had analysed these comments. The Secretariat had prepared and distributed document A 93-01/3/2011 “EU position paper concerning the documents prepared for this session”, along with the position of the Secretary General and Chairman. The EU comments had been classified into four categories 1) supported, 2) partially supported, 3) to be discussed and decided and 4) not supported. The **Chairman’s** proposal to use this document for the discussion and afterwards deal with the proposals from other participants was tacitly accepted.

5.1 Renaming the APTU Annexes in force UTPs (according to APTU in force as of 01.12.2010)

The **Secretariat** explained that renaming the APTU Annexes in force Uniform Technical Prescriptions (UTP) was merely a formal matter. The proposal submitted concerned four APTU Annexes adopted at the 3rd session of CTE (February 2009) when the technical specifications had been included in so-called “APTU Annexes”. In the APTU amendments in force since 01.12.2010, the APTU Annexes were already called UTPs. The purpose of the Annexes, now UTPs, had not changed. The procedure and rules for adopting UTPs and placing them on the Organisation’s website would also be the same. In order to ensure systematic terminology, the Secretariat proposed to rename these four APTU Annexes (1-A, 1-B, 1-C and 1-E), containing general provisions, as UTPs (GEN-A, GEN-B, GEN-C and GEN-E). As these UTPs contained no regulatory changes compared to their predecessors, they should enter into force the day after their notification to the Member States and it should not be possible to lodge objections in accordance with COTIF Article 35.

The result of the vote on renaming the APTU Annexes UTPs was: 10 in favour, none against, 1 abstention.

Conclusion:

The APTU Annexes (adopted at the 3rd session of CTE, February 2009) were renamed UTPs.

5.2 UTP GEN-B: DEFINITION OF SUBSYSTEMS (amendment)

Before starting the discussion on item 5.2 the **representative of the EU** expressed his surprise concerning the voting procedure because it had not been discussed under item 2. He did not intervene at that time as the discussion was about the quorum and not about the voting procedure. With regard to the voting procedure, he informed the meeting that in the EU, legal discussions concerning the number of votes that the EU had at the sessions of OTIF organs had

not yet been finalised. The EU's interpretation concerning the number of votes the EU could exercise at the sessions of OTIF organs differed from that of the OTIF Secretariat. At this session 4 EU Contracting States (i.e. having ratified COTIF 1999 and with no declaration in accordance with Article 42 of the Convention) were represented. The EU's interpretation was that the EU had 22 votes (all EU MS that have ratified COTIF 1999), even in the case that some of the EU Member States were not present in the session at the time of voting. However, in order to be constructive, the **representative of the EU** proposed to work as in other areas, such as maritime transport, where decisions are taken as far as possible on a consensual basis. If the delegations would accept such procedure, voting would not be necessary. This would also save time.

The **deputy Secretary General** pointed out that the question of the number of votes the EU enjoyed in the OTIF organs went beyond the CTE's competence. The question of the number of votes that the EU had applied to most organs of OTIF and had to be resolved in general. It would probably be necessary to establish both parties' positions on this question by means of arguments citing precedents. He supported the proposal made by the representative of the EU not to count votes in cases where a consensus could be reached.

BE reminded the meeting that at the last session of the RID Committee of Experts, the first question had been whether there were any objections to the proposals and votes had not been counted systematically.

The **Chairman** thanked delegates for their proposals and confirmed that he would try to find a consensus first but in sensitive cases, taking into account transparency and mutual acceptance, he would put the issue to vote. With regard to the question of whether the EU could exercise 22 votes, he proposed that in cases where 22 votes (but not 4) would change the result of a vote, adoption (or rejection) would be postponed until the number of votes the EU could exercise was clarified.

The first two EU comments (document A 93-01/3.2011, page 3), which the OTIF Secretariat supported, were tacitly adopted.

The **representative of the EU** pointed out the inconsistency between the definition of "other railway material" according to Article 2 ATMF and the wording in section 2.9 of UTP GEN-B, and proposed to delete this section.

The **Secretariat** replied that it did not see any difficulty with this definition. Other railway material could be a means of carrying goods placed on a wagon, e.g. a box which could be placed on a wagon with a structure comprising fittings, doors, locks, passive or active safety devices. It might have an energy supply if this box had a cooling system or electronic monitoring, such as GPS transmitting its position. It might have a communication system and requisites for operation by staff, such as handles, markings etc. If it were not defined as a subsystem, it would be difficult to make regulations for it (e.g. essential requirements). Other railway material was included in ATMF in COTIF 1999 and was not excluded by the 2009 revision, but it was correct that there was no parallel in the EU Interoperability Directive.

CER supported the EU proposal to delete section 2.9 because it might cause confusion, and instead to maintain the definition in Article 2 ATMF.

The result of the vote on deleting section 2.9 in Annex 1-B: SUBSYSTEMS was: 9 in favour, none against.

Annex 1-B: SUBSYSTEMS as a whole was tacitly adopted.

The **deputy Secretary General** informed the CTE that the OTIF budget provided for a session of the Revision Committee in 2013. At that session, the Explanatory Report on APTU and ATMF could be aligned according to the discussions at CTE. The “ensure or ascertain” question, or additional information concerning the definition of “other railway material”, would certainly be issues for the agenda of that session.

Conclusion:

Annex 1-B SUBSYSTEMS, with the replacement in section 2.2 and deletion of sections 2.5 and 2.9, was adopted.

5.3 UTP WAG: ROLLING STOCK - FREIGHT WAGONS (new)

The **Chairman** encouraged a readiness to compromise, with the aim of adopting the UTP WAG. He reminded the meeting that the Convention and its Appendices made it possible to return to questions where insufficient account had been taken of the requirements of some MS.

N stated that the amendments to APTU and ATMF Appendices which had been in force since 1 December 2010 had removed the conflicts with EU law, so the EU MS could apply them, together with the EU regulations. However, this conflict had not been resolved for the EEA countries. **N** would withdraw the declaration according to Article 42 of the Convention not to apply the APTU and ATMF Appendices, but it would make a declaration according to Article 11 of the accession agreement between OTIF and the EU in order to be able to meet its obligations under the EEA agreement.

The **Chairman** asked whether the declaration according to Article 11 of the accession agreement had the same consequences as the declaration according to Article 42 of the Convention, meaning that MS with a declaration in force were excluded from the decision-making process with regard to the APTU and ATMF Appendices. The **deputy Secretary General** replied that this was not the case.

The basis for discussion under this agenda item was document A 93-01/3.2011, the EU position paper on the documents prepared for this session – and the position of the Secretary General and the Chairman (p. 11 to 22).

Proposal 1 to delete Section 0.2.1 on page 4:

As an example of legal uncertainty, the **representative of the EU** mentioned the possibility available to the manufacturers in the EU of avoiding application of the EU regulations in force (TSI WAG) by submitting a request for approval of their wagons in accordance with the previous regime (RIV) in a non-EU OTIF Member State, thereby benefiting from an additional transitional period compared to the EU rules in the TSI. The automatic mutual recognition of approval in the EU OTIF MS for wagons approved outside the EU was also questionable. This

would mean the prolongation of the transitional period in the EU, despite that fact that in the EU regulations, it had expired in July 2008.

The **Secretariat** replied that Article 19 ATMF ensured that hundreds of thousands of existing wagons approved according to RIV need not be reapproved. In terms of avoiding reapproval, the transitional provisions in Section 0.2.1 probably concerned only a few hundred wagons in non-EU OTIF MS approved in accordance with RIV between 1 December 2010 and 1 April 2012 (anticipated date of entry into force of UTP WAG). This transitional provision had been discussed and accepted by WG TECH and was especially appreciated by stakeholders, as nobody wanted to waste money on additional approvals. It was impossible to create a retroactive law or to leave railways and manufacturers in a position where they would not order and produce any wagons due to uncertainty as to which rules would be applied to technical approval; in the worst case, these wagons would have to be upgraded or even scrapped. The entry into force of the jointly agreed revised ATMF had opened a similar “gap” between July 2008 and December 2010, and there had been no reaction from the EU. In the EU the TSIs similarly did not apply to existing vehicles, i.e. those “admitted to be placed in service” before the TSI enters into force. **CH** supported the transitional provision proposed by the Secretariat. The deadline for ceasing to use the previous regulations was as short as possible (until UTP WAG entered into force). It was not acceptable to force manufacturers outside the EU to apply an unpublished UTP before it became applicable in COTIF.

RS also supported this transitional period as the only logical and economical one. COTIF contained a completely different situation than in the EU, where TSI WAG had entered into force in 2006 and Interoperability Directive 2008/57/EC set the deadline for the transitional period. COTIF had set the general deadline for existing vehicles (Article 19 ATMF) in 2010 and later UTP WAG would enter into force. Wagons built between the entry into force of the amended ATMF (1 December 2010) and entry into force of UTP WAG should be covered by this transitional period in order that they did not have to be approved in every single MS where they would be used.

While appreciating the EU’s legal difficulties, **CER** asked that regulations be made easy for operators to apply.

The **representative of the EU** withdrew the EU proposal in response to the arguments presented; he nevertheless repeated the two unanswered questions concerning the application of this transitional period for the EU, namely approving wagons manufactured in the EU outside the EU, which in principle could not be avoided, and the automatic mutual recognition of the approval of wagons in EU OTIF MS approved in accordance with this transitional provision in non-EU OTIF MS but manufactured after July 2008 (when grandfather rights were abolished in the EU) if these wagons were marked RIV. As this was unacceptable, he mentioned that it might be necessary to abolish the mutual recognition of approvals in accordance with Article 3a ATMF.

CH welcomed the withdrawal of the EU proposal to delete section 0.2.1, but asked that the automatic mutual recognition of approval be maintained, otherwise interoperability between EU and non-EU OTIF MS would be jeopardised.

The **deputy Secretary General** commented that the reference to Article 19 ATMF, which contained with 7 quite complicated paragraphs, was not the best solution. Another option could be to refer to Article 19 § 7 ATMF, which gave the CTE the possibility of adopting

other transitional provisions on a case by case basis. He said that at the moment he was unable to evaluate the reference to Article 19 ATMF as a whole.

The **Secretariat** pointed out that such problems concerning transitional provisions would arise every time OTIF transposed EU regulations into OTIF regulations. He recalled a proposal that had been discussed since 2004 that decisions for the whole OTIF area (including the EU MS) should be taken at the CTE “in one go”, with entry into force for the whole OTIF area at the same time. The EU may prepare the regulations and submit them to the CTE.

The **Chairman** summarised the discussion and said that withdrawal of the EU proposal reflected the wish of the sector, represented by CER, not to make practical application complicated. He underlined that this transitional provision would be for a limited period (approximately six months) and only a few hundred wagons would be affected by it. Without the transitional provision, there might be problems for the EU OTIF Member States. Since 2008 it had not been possible to rely on the 2006 version of the TSI WAG. This was the situation in Switzerland at least, which had worked with TSI WAG in good faith, but where there were errors in that TSI, Switzerland had instead used the RIV. In that sense he thought the most intelligent solution was the proposed transitional period and supported the withdrawal of the EU proposal to delete section 0.2.1.

The **representative of the EU** explained that the EU had started to develop TSI WAG in 2002 and it had not been possible to wait until COTIF 1999 entered into force in 2006. He confirmed that he would withdraw the proposal to delete section 0.2.1 and asked that the following statement be included in the minutes:

“The consequence is that there will be a period of legal uncertainty concerning the acceptability of RIV wagons and the obligations to be observed by EU manufacturers and keepers until the end of the transition period.”

The **Chairman** underlined that the EU’s activities aimed at trying to raise the level of railway freight traffic in Europe by means of mandatory regulations were appreciated.

Proposal 2 to delete Section 0.2.2 on page 4:

The **representative of the EU** explained that this provision created an obligation to change the marking of the wagons operating in the EU within 2 years after the entry into force of this UTP. This obligation did not yet exist in the EU. In addition 0.2.2 overlapped with section 7.4.3. Of the options proposed by the Secretariat either to expand the deadline for 6 years or not to have a deadline at all the EU would prefer the second option. If this option were accepted, the EU would withdraw its proposal to delete section 0.2.2.

The **Secretariat** accepted the “no deadline” option.

CER confirmed that the only obligation that existed in the EU was in accordance with EU Decision 2007/756/EC amended by Decision 2011/107/EU on NVR, element 4.1.1, for vehicles in international traffic that do not use the 12 digit number only.

The **Chairman** underlined that it non using 12 digit number only concerned passenger traffic, which meant that it was not relevant to UTP WAG.

The “no deadline” option was tacitly adopted.

The EU withdrew its proposal to delete section 0.2.2. The correction in section 0.2.2 would entail the deletion of the words “and not later than 2 years after the entry into force of this UTP” at the end of the section.

In reply to **CER**’s question as to whether wagons marked RIV should in future be re-marked TEN, the **Secretariat** said this was not the case, which was also confirmed in Annex PP.

The **representative of the EU** drew attention to the fact that it was not completely clear that the provision in section 0.2.2 only concerned wagons falling under section 0.2.1 and proposed that this be expressed more clearly in the text of section 0.2.2.

To resolve this issue, the **Secretariat** proposed the following text for section 0.2.2:

“The markings referred to in section 1.1.3 shall be applied to a wagon subject to 0.2.1 by the time it is placed into service and those referred to in section 1.1.4 shall be applied to the wagon by the time of its first maintenance service in a workshop,

which was tacitly adopted.

Proposal 4 to delete the text after the table in Section 4.2.4.1.2.8 (parking brake) on page 46:

The **representative of the EU** explained that after consulting the TSI WAG in force, he had discovered some difficulties. These difficulties were being resolved in the context of the revision of TSI WAG. The sentence following the table still caused a problem because it was difficult to comply with the performance requirements mentioned.

The **Secretariat** confirmed that the text in the proposal corresponded in full to the text in the revised TSI, the only difference being the use of the word “may” instead of “shall”.

CER confirmed that the sentence concerning the design of the parking brake under the table had been deleted in the revised TSI. This solution had already been endorsed in the ERA technical opinion in January 2011.

The **representative of the EU** explained that the deletion of the sentence under the table was technically correct and corresponded to the ERA technical opinion, but the EU MS had still not given their opinion in accordance with the EU internal decision procedure. He agreed with the amendments, but could not confirm his agreement until the EU’s internal decision-making procedure had been completed, and he proposed to maintain the text in two different columns. In the right-hand column the EU text, in the left-hand column the modified text and footnote 14 to explain the status of the regulations.

Annex B to UTP WAG

Proposal 12 to mark all items not common in UTP and TSI with “V” (voluntary):

The **representative of the EU** emphasised that Annex B to UTP WAG concerning the marking of freight wagons was very important to ensure the same marking both inside and outside the EU and to avoid confusion in operations. Page 3 of the draft Annex B to UTP WAG dated 5 September 2011 set out the obligations for the OTIF MS which did not exist in the EU, e.g. position 49, Permissible diameter of the wheel marked on the OTIF part of the regulation as

“A” (always). The proposal was to change “A” to “V”. The markings proposed on pages 4 and 5, i.e. “GE” and “CW”, were still being discussed with the parties concerned (especially CER). At the EU coordination meeting just before this session, there had been a lot of opposition to this marking and its meaning had not been clear. The EU was not in a position to adopt this text at present.

The **Secretariat** explained that the table had been aligned with CEN standard 15877-1, which had not yet been released, but was in the adoption procedure. For the first part of the table (positions 1 to 33), there were parallels in Annex B of the TSI. In 2006, when the TSI came into force, the work on the standard had not yet started. The Secretariat had drafted the continuation of the table (positions 34 to 60) in accordance with the standard. Application of the markings was divided into 3 levels: “V” – voluntary, “RID” for marking to be applied in accordance with RID and “F” for facultative: if the wagon has the characteristic relating to the marking, then the marking is mandatory; many “(F)” markings indicated a safety issue; “A” meant that a wagon must always be marked. According to Article 19 ATMF, these markings should also be applied to existing wagons. The **Secretariat** confirmed that formally, these markings were not in the TSI wagons in force, but saw no contradiction with this table, as the draft revised TSI wagons contained a general sentence that all the markings in the standard should be applied, if appropriate.

With regard to the “GE” and “CW” markings, the **Secretariat** confirmed that there had been a meeting with stakeholders at DG MOVE in Brussels on 13 July 2011, to which OTIF had been invited. At that meeting, it was decided that these markings could be accepted, but not as part of the vehicle number. These markings were included in the proposed Annex C to the revised TSI Wagons. As UTP WAG could not be revised every 6 months, the **Secretariat** proposed to include these markings in the UTP WAG and was sure that it would be appreciated by the stakeholders.

The **representative of the EU** repeated that none of the obligations on page 3 (positions 34 to 60) existed in the EU and were creating problems for the EU OTIF MS.

CH said it also had some difficulties with the table on page 3. If wagons arrived from the EU OTIF MS to a non-EU OTIF MS, these markings would not be on the wagons. If these markings were to be voluntary, then it was the responsibility of the sector to issue recommendations for markings on wagons. If these markings were voluntary, it would not be necessary to prescribe them in the regulations.

The **Chairman** commented that the draft table was not mature enough to be accepted by both parties (EU and the OTIF Secretariat) and proposed to delete it.

The **Secretariat** strongly opposed deleting the table as it contained safety-relevant markings, such as position 51: “Prohibition to run with open sliding doors, curtains or hood”. These markings were used by the RUs to check that the train was safe before departure. The Secretariat claimed that they had simply been forgotten when drafting Annex B to TSI wagons in 2006.

UIC commented that all the “RID” markings were superfluous as they were already prescribed in RID. The correct description for position 52 should read: “Transported dangerous goods” instead of “Transported goods”.

As a member of the standards drafting group, **Mr Raff (Secretariat)** recalled the endless discussions in this group on whether to include the RID markings in the standard or not. The final solution had been to include them in the standard because the specifications in RID were rudimentary and insufficient; the colour, size and position were not always specified.

The **representative of the EU** asked if any non-EU MS supported this table, because the discussion was based on the proposal by the Secretariat. Normally the proposal should be submitted by a MS or an international organisation, not by the Secretariat.

In reply to the **Chairman's** question as to whether a non-EU OTIF MS supported including this table, **CH** said that it did not support all RID and voluntary markings. **CH** entered a reservation on introducing obligatory markings, for example for existing wagons.

Summarising the discussion, the **Chairman** stated that the work in the EU for this part of the table (positions 34 to 60; all positions with “-“ for the EU) was not yet finished. It was an intelligent solution but was not yet mature enough to put into legislation. He proposed to delete positions 34 to 60 of the table and to mandate the standing working group WG TECH to develop a solution.

The **representative of the EU** supported the Chairman's proposal to delete positions 34 to 60 of the table and added that position 28 also caused a problem as there was no regulation within the EU. He proposed that position 28 also be deleted.

Concerning the **Chairman's** proposal to mandate the standing working group WG TECH to complete the table and bring it into force, the representative of the EU understood that the CTE would adopt the UTP WAG (Annex B without the table on page 3), the Secretariat would notify the MS and on the first day of the 6th month after the notification the UTP WAG would enter into force. The standing working group WG TECH would continue the work on this part of the table and after approximately 6 months it could be adopted using the written procedure.

The meeting tacitly adopted the deletion of all positions in the table for which there were no rules within the EU (with “-“ for the EU) and all consequential editorial amendments (deletion of reference to positions 34 to 60 in section B.1). As a consequence of deleting position 60 in the table, the operational compatibility markings “GE” and “CW” were also deleted as UTP regulations.

The **Chairman** proposed to return to the issue of the operational compatibility markings if the EU MS' opposition to them were to change.

The **representative of the EU** drew attention to the fact that despite the classification of proposal 9 as “*supported*”, the text proposed by the EU had been amplified in the OTIF Secretariat's comment.

Owing to the amplified text in EU proposal 9, this proposal was changed from “*supported*” to “*to be discussed and decided*”.

The **representative of the EU** explained that the difficulty with the text amplified by the OTIF Secretariat was that it could be understood to mean that the obligation for assessment would continue to be valid after authorisation had been granted.

The **Secretariat** explained that a wagon may not have been numbered during module assessment. The wagon might get its number at the end of the manufacturing process. Article 14 ATMF clearly stated that vehicles “admitted” to operation must bear a unique identification code (the vehicle number). The approving authority should ascertain that the wagon “admitted” to operation has been numbered and that the rules for numbering in Annex PP had been complied with.

CER proposed to resolve the problem mentioned by the representative of the EU by adding the words “when granting the admission” at the end of the extended text. This would be completely consistent with Article 14 § 1 ATMF and Article 15(1) of the Interoperability Directive 2008/57.

The **representative of the EU** asked that the same obligation not be mentioned twice and with different wording.

As a result of the discussion the following text would be included at the end of section 6.2.2.1:

“The provisions in Annex PP (Vehicle identification) shall not be subject to assessment by the assessing entity as part of the Modules, but in accordance with ATMF Article 14, before granting the admission the admitting authority shall ascertain that the provisions of Annex PP have been met.”

The **representative of the EU** asked that this text be shown in the left-hand column because no such text existed in the TSI.

This amendment was tacitly adopted.

All other proposals designated as “*supported*” were tacitly adopted.

With regard to the EU comments designated as “*not supported*”, the EU required that proposals 16 and 18 concerning Annex LL HOT AXLE BOX DETECTOR and Annex VV COMPOSITE BRAKE BLOCKS be discussed.

The **representative of the EU** explained that in both cases the content of the Annexes was taken from the Technical Document published by ERA. In the technical specification applicable in the EU, the Commission Decision had delegated its authority to ERA to publish the lists of hot axle box detectors and composite brake blocks that had been approved. It meant that the users, wagon keepers, etc. could use them in the assumption that they met the requirements in the regulations. The reason for delegating authority to publish these lists was that they were constantly and rapidly re-evaluated in the light of research and innovation, etc. If these lists were to be part of the TSI it would be difficult for the industry to use new products. ERA had the authority to develop and publish the lists under the responsibility and supervision of RISC, with the possibility of asking ERA to use the previous version again, if necessary. The Secretariat had chosen another option for the UTP, i.e. to copy the ERA lists into the UTP. For the EU, this was not a proper solution for the future. The EU proposal was to refer to the ERA document, perhaps also with the approval of the CTE, again with the possibility of asking ERA to use the previous version again, if necessary.

CER declared that it had informed the Commission many times that it had a different interpretation of the status of ERA technical documents. According to Article 5(8) of the Interoperability Directive 2008/57, technical documents were to be regarded as annexes to the TSI

concerned and they should be adopted in accordance with Article 6(1) of the Interoperability Directive 2008/57 (voting in RISC). There were at least one or probably two cases where an ERA technical document had caused a critical safety problem. This had already been reported by a MS to the Commission one and half years ago.

The **Secretariat** commented that if the EU's proposal were adopted, it would give rise to dynamic references. The issue of dynamic references had been thoroughly discussed in WG TECH, with the conclusion that from a legal point of view, dynamic references were not acceptable.

The **deputy Secretary General** confirmed that a dynamic reference giving decision-making power to another organ not composed of the same members was not acceptable.

CH supported the deputy Secretary General's position. CH pointed out that to include such ERA technical regulations in the UTP, ERA should inform the SG of technical regulations without delay, in order that the Secretary General could start the written procedure according to Article 21 § 3 of the Rules of Procedure of the CTE.

The **deputy Secretary General** commented that the CTE could decide at this session to use the written procedure for this issue. It had been introduced particularly for such matters.

The **representative of the EU** said he was surprised at such conservatism. The aim of the ongoing reform of the rail sector was to reduce state intervention and simplify the regulations. It was incomprehensible why the railway world preferred to have every detail regulated in law. In these specific cases of hot box detectors and composite brake blocks, major technical developments were underway, but there seemed to be a desire to regulate everything in detail, rather than indicating acceptable means for achieving particular ends. No-one should impose a particular technology. This was just an attempt to say that if the user is going to use a particular technology there would be a presumption of conformity and he would be able to use this technology. It would be the same as with standards. A standards organisation develops a standard. Information was published in the Official Journal to the effect that using the standard, you would be complying with the essential requirements of the relevant directive. Instead of a dynamic reference, it could be stated that ERA was publishing the list of approved brake blocks with the assumption of conformity to the basic requirements. This would be a task for ERA. He proposed that ERA's role be recognised and that its services should be made use of. ERA had the capacity to carry out this work and the issue of how to cooperate with ERA should be discussed with the Secretariat. Keeping the static list in UTP would create problems for the EU and non-EU OTIF MS, as they would have different legal information. The written procedure could perhaps be used, thus keeping the regulations synchronised at all times.

The **Chairman** said he understood the EU's arguments and was sure that the meeting agreed with them. He commented that such a procedure might work in the future, but cooperation between OTIF and ERA did not work at the moment. A task for the future was to establish cooperation, including the opportunity for the OTIF Secretariat to have some input into ERA's work.

CH thought there were two possibilities; firstly, the simultaneous adoption of updated lists and coordination of the adoption procedure between EU and OTIF and secondly, the adoption of separate lists by CTE and ERA and mutual recognition of these separate lists.

Following the discussion the **representative of the EU** withdrew EU proposals 16 and 18 to remove the list from Annexes LL and VV, provided his statement (below) was included in the minutes:

“Annexes LL and VV correspond to Technical Documents published by ERA. However, as TD are supposed to be updated regularly by ERA, copying them into the UTP will lead to problems of interoperability or discrimination between EU and non EU MS because of delays in updating them within OTIF.”

CTE mandated the Commission, the OTIF Secretariat and ERA to discuss and propose a procedure for publishing these lists simultaneously and to submit the result of their discussions to WG TECH.

Annex PP to UTP WAG

Proposal 28; clarification of the mixture of the current and future text of Annex P:

The **representative of the EU** commented that according to ERA PP.12 should also be deleted in addition to PP.11.

The **Secretariat** did not agree with the EU proposal and explained that the problem with section PP.11 was that it concerned special vehicles and not freight wagons and should be treated in the same way as section PP.10 concerning passenger coaches. For this reason, the Secretariat proposed to delete section PP.11. Section PP.12 contained the letter marking for freight wagons and should correspond to the coding of wagon number positions 5 to 8. This was in the present EU regulations and the Secretariat had taken it over. It might not be contained in the future regulations and the solution could be similar to that just discussed for the ERA technical documents.

The **representative of the EU** stated that section PP.12 was not in force in the EU. **ERA** confirmed this. It was a text which would enter into force on 1 January 2014.

CER confirmed that the letter codes were always in the TSI Operation and for the future, the EU seemed to have incorporated them into the NVR decision.

For the **Secretariat** it had been extremely difficult to take over some parts of the TSI Operation and Traffic Management into UTP WAG. For the draft UTP WAG the recently merged version of TSI Operation had been used. The coding of the wagon number and especially of the wagon type had to be harmonised and regulated so that the same codes did not have different meanings in different countries inside and outside the EU.

CER confirmed that Appendix P to TSI Operation and Traffic Management in force (Commission decision 2011/314/EU) contained a letter marking for freight wagons. This Appendix was applicable from 1 January 2012 until 31 December 2013. The same TSI contained Appendix Pa, which was applicable from 1 January 2014. Section PP.12 of Annex PP to UTP WAG corresponded to Appendix P in TSI Operation and Traffic Management.

The **representative of the EU** withdrew the proposal to delete section PP.12.

Conclusion:

Section PP.11 would be deleted and replaced by “(not relevant to wagons)”.

All the EU proposals which the OTIF Secretariat had designated as “supported” (proposals 19, 20 and 24 on pages 18 to 22) were tacitly adopted.

EU Proposals designated as “partially supported”:

EU proposal 22 to delete example with “RIV”

The **Secretariat** explained that the example with RIV was needed for existing wagons. Section PP.5.1 contained the detailed explanation on using the RIV marking. This explanation clearly said that the RIV marking could no longer be used after UTP WAG had entered into force.

CTE adopted the proposal from the **Secretariat** to add the following note directly under the examples:

“Note concerning the examples:

The example RIV is only valid for existing wagons, i.e. not for wagons admitted after the entry into force of UTP WAG (including this Annex), see section PP.5.1.

The dotted frame is not part of the marking.”

EU comment 21:

This comment was not categorised because it was not a proposal.

The **representative of the EU** asked why the text of the TSI in force had not been taken over into the UTP across both columns.

The **Secretariat** replied that the whole text of the right-hand column was in chapter 1 of the standard, but the standard contained other provisions, e.g. markings must be legible, graffiti must be removed, a frame around the marking etc. It proposed that the standard be used as it was the most recent instrument.

The **representative of the EU** explained that the EU had a clear philosophy in terms of using standards. The EN standards were produced by the industry and applied by the industry on a voluntary basis. In the Railway Safety and Interoperability Committee (RISC), there had been lengthy discussions on the obligatory use of standards in the TSIs. The unanimously agreed outcome of these discussions was that references to standards should be avoided as much as possible and that the amalgamation of obligatory provisions in TSIs with voluntary provisions in the standards should be avoided. If it were necessary to take over the provisions of the preliminary standard into the UTP, they should be copied in full into the UTP. Discussions on whether to take over the provisions from the standard into the obligatory regulations had already been concluded in the EU. The result was the wording in the right-hand column of the draft UTP. He insisted that the text from the right-hand column be included across both columns.

The **Secretariat** explained that not referring to the standard could endanger safety if, for example, graffiti was not removed or the advertising on wagons made safety-relevant marking illegible.

CH commented on the issue of graffiti. The obligation to place a marking on a wagon implied that the marking must be legible. If it were illegible, this would mean it was non-existent. Considering all the arguments mentioned by the Secretariat, no additional regulation was necessary.

CER expressed two opposing but coherent points of view. For the decision to be taken today, it supported the EU's aim of trying to achieve maximum harmonisation between the TSIs in force and the UTPs. On the other hand, the revised draft TSI wagon followed the principle of deleting references to standards. This led to the situation that the Secretariat had described. Staff in the field would have great difficulty in finding and evaluating markings if the markings were not obligatory, which could lead to safety problems. For the time being, **CER** supported the EU's proposal. The Secretariat's point of view, which was wholly justified, could be considered for the future.

The **Chairman's** suggestion to delete the reference to the standard and spread the EU text across both columns was tacitly adopted.

The **Chairman** reminded the meeting that this was only a partial solution to the problem. If it was decided not to refer to standards in the revised TSI wagon, the CTE should consider how such cases should be resolved.

The **Secretariat** considered that deleting the reference to the standard introduced a safety risk.

EU proposal 26 to insert two tables according to Commission Decision 2011/314/EU:

and

EU proposal 27 to insert an explanation for including two tables in PP5:

The **Chairman** reminded the meeting that these tables contained the wagon numbering system.

CER drew attention to the fact that by transposing the TSI into UTP, the content of the TSI was transposed but not the provisions in the Commission Decision concerning the TSI, which also contained some important provisions. Article 3 of Commission Decision 2011/314/EU contained the transitional provision concerning the renumbering of a vehicle if it were sold or newly hired out without any changes to technical characteristics at the time of re-registration. It proposed to include the provisions of this Article 3 in the UTP. This provision to change the wagon number after 31 December 2013 would only be permitted if the technical characteristics were changed.

The **representative of the EU** confirmed that this issue was very complicated. He asked the CTE not to introduce any changes to Annex PP as this was the result of considerable work by ERA, and Annex PP had been subject to a vote by the EU MS. He also confirmed the proposal to introduce two tables into section PP.6, which would be simpler than adding notes.

The **CER** proposal to transpose the whole of Appendix P and Appendix Pa from TSI Operation and Traffic Management into UTP WAG, because of the differences in wording, was tacitly adopted.

As OTIF would not issue incomprehensible regulations, the **Secretariat** asked that a decision be taken concerning the deletion of the row highlighted in yellow in table PP.6.1. This line was confusing and did not provide any valid information.

The **representative of the EU** asked that the table be copied into Annex PP of the UTP, even if it contained mistakes. There were still three years to return to this issue and amend the table if there were any minor problems.

The decision not to change the text of section PP.5 (containing the explanation of the “RIV” marking) was tacitly adopted.

The **Chairman** repeated that all the EU proposals designated as “*partially supported*” had been discussed in depth and tacitly adopted. The texts would be amended in accordance with the minutes.

EU proposal 23 to add the last sentence of Appendix Pa, PART 2 INSCRIPTION OF THE NUMBER AND LINKED ALPHABETICAL MARKING ON THE BODYWORK to the common text (designated as “*not supported*”):

After analysing the Secretariat’s comment, the **representative of the EU** considered that the amendment proposed by the EU was necessary and he insisted that the proposal, which allowed the keeper to have his own numbering in the marking, be adopted.

The **Secretariat** thought the provision in the EU regulations requiring the keeper’s own marking on the vehicle was acceptable for locomotives, but for freight wagons, giving keepers this possibility would cause uncertainty in terms of uniqueness, as different keepers might use the same numbering, which could lead to operational problems and safety risks. For freight wagons, the Secretariat suggested maintaining the 12 digit number only, which would be sufficient.

The **CER** fully supported the Secretariat’s suggestion, as this proposal was intended for locomotives and traction units only. It asked whether this proposal was also suitable for special wagons, such as those used for infrastructure maintenance.

The **Secretariat** said that special vehicles were not considered as freight wagons.

The **Chairman** asked the representative of the EU if he could withdraw the proposal, as it was only valid for locomotives, traction units and special vehicles and not for freight wagons, so it was irrelevant to UTP WAG.

The **representative of the EU** maintained his proposal not to restrict the keeper’s right to add his number to the marking, although this marking should be clearly distinguishable from the EVN number.

CH commented that as the aim of this proposal was only to give keepers permission to add their own marking, it was insignificant as to whether it was included in TSI WAG or not. On balance, CH would be inclined not to allow this possibility in UTP WAG.

The **deputy Secretary General** suggested including a provision to help identify the EVN number easily. He reminded the meeting that in accordance with the Luxembourg Protocol,

after 2014 there might be an obligation to display yet another 20 digit vehicle number if the vehicle was bought on credit.

The **Chairman** proposed that UTP WAG should include a provision to enable keepers to add their own number to the marking, as in the TSI OPE. This concession to keepers in the EU should also be granted to keepers in non-EU MS as well.

CH said that a condition of adding this proposal to UTP WAG should be that WG TECH should be mandated to draft more general conditions for marking, particularly identification of the EVN number.

The **Secretariat** would add the keeper's own numbering if the CTE so decided, but reminded the meeting that it would probably have to be deleted later as it was not in accordance with EU decision 2011/314/EU, which was only applicable to locomotives, "power cars" and special vehicles.

To close the discussion, **the representative of the EU** suggested voting on this proposal.

The outcome of the vote was 5 in favour and 4 against. The EU proposal was adopted.

There were no other proposals from the MS or organisations for amendments to UTP WAG.

The result of the vote on adopting UTP WAG and all its Annexes, including all amendments adopted during this session, was:

11 votes in favour, none against, no abstentions.

Conclusion:

UTP WAG, with all its Annexes, including the amendments adopted during this session, was unanimously adopted.

The **Chairman** thanked the CTE for its rapid and successful work in favour of the railway sector.

The **Secretariat** explained that the French and German versions of the now adopted English version would be put to the vote using the written procedure in accordance with the CTE Rules of Procedure, once the translations were available.

5.4 UTP GEN-D: ASSESSMENT PROCEDURES (MODULES) (new) UTP GEN-G: COMMON SAFETY METHODS (CSM) ON RISK EVALUATION AND ASSESSMENT (RA) (new)

The **Chairman** proposed that the EU position paper commented on by the Secretary General be used as the basis for the discussions on and amendments to these to draft UTPs.

5.4.1 UTP GEN-D: ASSESSMENT PROCEDURES (MODULES) (new)

1. EU Proposals designated as "supported":

The **Chairman** proposed to amend UTP GEN-D in accordance with all the EU proposals (pages 4 to 6 of the EU position paper, with comments from the Secretary General). These

proposals, designated by the Secretariat as “supported”, were tacitly adopted with the amendment proposed by **RS**, supported by the **EU** (in the third paragraph of section 2 on page 11, replace the term “used” by “placed on the market” instead of “manufactured”. Using the expression “manufactured” would limit the scope of this provision only to the production of interoperability constituents (IC) manufactured in this particular country. The aim should be to assess all ICs placed on the market in a Contracting State.

ERA’s editorial proposal to replace “used on their territory” with “placed on the market on their territory” was tacitly adopted.

The EU proposal on page 6 of the EU position paper concerning UTP GEN-D (section 5.5 on page 85) was designated as “*to be discussed and decided*”.

2. EU Proposals designated as “partially supported”:

EU proposal to delete the second sentence in the second paragraph of section 0:

The representative of the EU accepted the solution proposed in the Secretariat’s comments to delete the sentence.

EU proposal to simplify the text in section 4, pages 81 to 84 (UTP GEN-D chapter 4: Assessment of national rules):

The representative of the EU explained that the EU legislators had not found it necessary to harmonise the procedure for assessing conformity with national rules, as the assessment was only valid for each respective country. Furthermore, mutual recognition of the assessment of local (national) validity was possible. In addition, from a legal point of view, introducing such provisions would create an obligation for EU OTIF MS after withdrawal of the declarations according to Article 42 of the Convention not to apply Appendices F and G. In the event that some of the non-EU OTIF MS might find it useful to introduce such regulations, and support the harmonisation of the procedure for assessing conformity with national rules, he requested that the text be amended to state clearly that this provision did not apply to EU OTIF MS. He thanked the Secretariat for its partial support of the EU proposal.

RS confirmed that it had helped the Secretariat draft this text and considered these provisions to be very useful for non-EU OTIF MS. He agreed to amplify the text in the left-hand column with an explanation to the effect that these provisions did not apply to EU OTIF MS.

In reply to the request from **CH** for an explanation of the need to assess conformity with national technical requirements not mutually recognised, **RS** answered that as the assessment was required according to APTU, the proposed procedure could be used as one option. **RS** proposed that these provisions be accepted as a recommendation and not as an obligation.

The **Chairman** was not in favour of introducing recommendations into a legal text.

According to the **Secretariat** some kind of regulation for assessing the notified national technical rules was necessary. Doing it the EU way meant that every MS should nominate a designated body. This would imply changing the definition of the assessing entity, because the rules of the assessing entity (Chapter 1) should be valid for such a designated body. This also would imply substantial extension of the regulation in the right-hand column taking over the provisions from the Interoperability Directive concerning notification of Designated Bodies, notifi-

cation of the procedure rules in order that the applicant could find the (different) procedures in each individual country. The OTIF rules drafted by RS and the Secretariat had taken into account the reduced time and costs for an applicant using a harmonised procedure, as in the assessment modules for checking compliance with the UTP requirements. According to OTIF rules the national authority was responsible for the “admission to operation”, and had to ensure that all assessments had been successfully completed. This was why the application would not be submitted directly to a Designated Body, but to the authority which might decide to carry out the assessment itself or appoint one of the assessing entities, preferably one of those that had carried out the UTP assessment in accordance with the modules according to chapters 2 and 3 of UTP GEN-D. That was the main reason for such a harmonised procedure, which the applicant could encounter in all the MS. The **Secretariat** did not see any problem in including text in the title to the effect that these provisions would be valid only in the non-EU OTIF MS.

The **representative of the EU** thanked the Secretariat for explaining the aim of this chapter, which was not really to harmonise the procedure but to define a procedure for those MS which did not yet have any procedure in place. He thought the easiest solution might be to add the following sentence to the introduction, as was done in other situations: “In the absence of national or EU rules this procedure shall be followed”. That would mean that if some non-EU MS already had a valid procedure, this need not be modified.

After a discussion in which **the representative of the EU**, the **Secretariat**, **CER**, the **deputy Secretary General** and **RS** took part, it was agreed that the following text should be included at the beginning of Chapter 4:

“Where no applicable rules for assessing conformity with the notified national technical requirements/rules are in force in a Contracting State at the time of the entry into force of this UTP, the following procedure shall apply in that State:”

At the request of **BiH**, a French translation of the proposed text was made available.

The additional text at the beginning of Chapter 4 (page 81) and the deletion of section 5.2 (page 83) were tacitly adopted.

The representative of the EU requested that his statement that the provisions of Chapter 4 PROCEDURE FOR ASSESSMENT OF A SUBSYSTEM’S CONFORMITY WITH NOTIFIED NATIONAL TECHNICAL REQUIREMENTS/RULES did not apply to the EU OTIF MS be included in the minutes.

EU proposal to delete the term “value” in Annex 3:

The representative of the EU repeated his proposal to delete the term “value” in the second sentence of Annex 3. He opposed the Secretariat’s suggestion that this table showed the *equivalence* of certificates and other documents; it showed the *correlation* between them and he proposed to change the title from “Equivalence” to “Correspondence”.

The **Secretariat** had prepared this table as an aid for users, authorities and applicants, to show which documents had the same purpose with the same principal content and value. The names of all these EU documents had recently had “EC” added at the beginning, which could not be used for OTIF documents. There were two different titles for documents which were produced

for the same requirements by the EU and OTIF. For example, the EC declaration of conformity was made according to EU regulations and it was equivalent to the declaration of conformity specified in UTP GEN-D. However, he could agree to change the title from “Equivalence” to “Correspondence”.

The **Chairman’s** proposal to rename the table “Conversion table” was tacitly adopted.

Conclusion:

1. Annex 3 would be renamed “CONVERSION TABLE FOR OTIF AND EU CERTIFICATES AND OTHER EVIDENCING DOCUMENTS”.
2. In the first sentence the word “conversion” would be included before the word “table”,
3. The end of the second sentence would be amended to read: “but have the same purpose and content.”.

As a consequence, an editorial amendment in chapter 0 EQUIVALENCE was required; the second sentence would be amended to read “See conversion table in Annex 3”.

3. EU proposal designated as “to be discussed and decided”:

EU comment on UTP GEN-D section 5.5 (page 85 of the EU document):

The **representative of the EU** commented that it would be difficult to apply such a provision. It should be clear at which moment the risk assessment and evaluation should be applied and whether this provision was mandatory or voluntary. Discussions on these issues were going on in the EU. He did not agree with the Secretariat’s reply that the admitting authority should have the competence to require an explicit risk assessment and evaluation if neither the UTPs nor the national rules provided an adequate basis for full assessment of compliance with the essential requirements. The choice should be given to the applicant. It was questionable whether such provisions were necessary at all.

The **Secretariat** agreed that this was a difficult issue. This provision was meant as a kind of “safety valve” in the regulations on the basis of which the admitting authority – if the applicant had not performed a risk assessment on its own initiative - could support its decision on issuing its technical admission by requiring an explicit risk assessment and evaluation from the applicant; alternatively the authority had to refuse the admission. Part of the essential requirements was that the subsystem had to be safely integrated into its environment. The EU DV29 document (Guidelines) stated that for safe integration, all these detailed requirements should be included in the specifications of TSIs that had to be met in order to satisfy the essential requirements. But something might have been forgotten in the regulations. As pointed out in previous meetings, the Secretariat had certainly found that some safety provisions were absent from the TSI Wagons in force. The TSI in force did not comply with this DV29 requirement to include all the detailed requirements for all wagons to meet the essential requirements. For example, for “passe-partout” wagons subject to TSI WAG chapter 7.6.4, additional requirements (about 20 of them) were included. But they only applied to wagons with profile G1, a maximum inner axle distance of 17.5 m, etc. and did not apply to wagons with profile G2, GC and others. Before putting a subsystem into operation, full compliance with the essential requirements had to be checked. The final entity carrying out this check was the admitting authority. The Notified Body only checked whether the requirements of TSI/UTP

were met. They did not check whether national requirements had been met. The Notified Bodies should not decide whether they required an explicit risk assessment and evaluation, which was quite expensive and time-consuming. The decision should be taken at a higher level.

Bearing in mind the Secretariat's explanation, the **representative of the EU** accepted the text in the left-hand column and stated that he would check whether EU regulations contained any additional text to be included in the right-hand column.

The **Chairman's** proposal not to amend section 5.5 on page 85 was tacitly adopted.

4. EU Proposals designated as "not supported":

EU proposal to delete the first sentence in section 0 EQUIVALENCE:

The **Secretariat** explained that its understanding of equivalence was that the regulations should have the same value. As the input and output of the assessments in Chapter 4 had the same specifications and same purpose as in the EU regulations, they were to be considered as equivalent, despite the different assessment procedures.

The **representative of the EU** asked why such a declaration of equivalence was included at the beginning of every UTP. Article 3a ATMF set out the conditions for mutual recognition of "placing into service" of railway vehicles between EU MS and Contracting States:

- full equivalence of provisions in applicable UTP and corresponding TSI,
- availability of all applicable UTPs for the vehicle,
- no open points relating to compatibility with the infrastructure and
- no derogations for such a vehicle.

UTP GEN-D contained modules for verifying conformity with provisions of the applicable UTP. The Secretariat considered it useful to include in UTP GEN-D Chapter 4, assessment of conformity with notified national technical rules and Chapter 5, assessment of the safe integration, which in principle, was the compatibility with the infrastructure. There were differences between these two chapters. To make application of the UTP WAG equivalent only chapters 2 and 3 needed to be equivalent. Only chapters 2 and 3 could really be declared as fully equivalent.

The **Chairman** pointed out that for common freight wagons chapters 2 and 3 would be applicable in the near future. Chapters 4 and 5 would not be applicable to the majority of freight wagons, only to exceptional wagons. He proposed to remove the declaration of equivalence relating to chapters 4 and 5.

The **Secretariat** stressed that chapter 5 was equivalent to the EU regulations, i.e. Regulation No. 352/2009 on common safety methods on risk assessment. There was a need for these regulations and to make them equivalent. The EU probably considered equivalence to mean that the regulations were identical; the **Secretariat's** interpretation of equivalence was that the regulations had the same value and quality.

Assuming that Chapter 4 concerned only a limited number of wagons, the **Chairman** proposed to amend the text after the words “are declared equivalent” in chapter 0 to read: “(with the exception of chapter 4)”.

After reconsidering, **the representative of the EU** did not consider chapter 5 to be problematic. He only asked that a reference to EU Recommendation 2011/217/EU concerning “putting into service of the vehicle” be included in the right-hand column. He supported the Chairman’s proposed amendment to chapter 0.

The addition of the text “(with the exception of chapter 4)” in chapter 0 after the words “are declared equivalent” and the additional text “See Recommendation 2011/217/EU” in the right-hand column at the beginning of chapter 5.1 on page 85 were tacitly adopted.

EU proposal: ERA to act as the technical secretariat of a coordination group of assessing entities (owing to budget and staff problems announced by the Secretary General at the 10th session of the General Assembly in June 2011); section 1.3.5 on page 7 of UTP GEN-D:

The **representative of the EU** explained that it was very important to set up such a group to exchange information among the national assessing entities on the application of the procedure for assessing conformity or suitability for use of interoperability constituents. Within the EU, the Commission had set up a notified bodies coordination group (NB Rail), with ERA acting as its technical secretariat. He thought it was premature to ask CTE to take a decision on setting up such a group and before such a decision was taken, he proposed that there should be a discussion between OTIF, the Commission and ERA on how best to coordinate the EU notified bodies and the OTIF assessing entities. The EU proposed to reword the text to make it more general and to mandate OTIF, the Commission and ERA to initiate preparatory discussions to find a practical solution to coordinating the tasks.

The **Secretariat’s** opinion was that the purpose of this group would be to coordinate the work and opinions of the assessing entities of which the notified bodies would be a part. There should of course be only one group. A member of the board of NB Rail had already welcomed the idea one year ago to expand NB Rail to include assessing entities from non-EU MS, but NB Rail thought the problem might be to get permission to do so from the Commission, which had established NB Rail. Some months ago the Secretariat had proposed to ERA, as the technical secretariat of NB Rail, that there should be one joint group for EU and non-EU OTIF MS. The **Secretariat** was pleased that Commission’s view was also that there should be one joint group. The answer to the question of who could establish such a group was very clear. It was the CTE. It opposed the text proposed by the EU, saying that it was not precise enough. It had no objection if ERA were to continue to act as the technical secretariat for an enlarged NB Rail group and it agreed that ERA’s work as the technical secretariat was very valuable.

CER confirmed that it would be very useful for the sector to have one, and only one body coordinating the work of assessing entities, including the NoBos.

The **deputy Secretary General’s** suggestion to keep the first paragraph of section 1.3.5 and delete the two following paragraphs setting out the detailed description of the composition of the group and its activities was supported by the Chairman and was tacitly adopted. The **Chairman** underlined that this solution would enable equivalent functionality for OTIF and EU to be established.

The **CTE** mandated the Secretariat, the Commission and ERA to hold discussions to find a practical solution for one coordination group of assessing entities and notified bodies in the interests of the railway industry and the railways, thus avoiding duplicate or additional obligations for the EU notified bodies. The legal basis for setting up such a group was Article 22 of the Rules of Procedure of CTE, which authorised CTE to establish standing working groups.

The **deputy Secretary General** reminded the meeting that the first paragraph of section 1.3.5 did not exclude the possibility of setting up a joint group. As a practical example of a joint group, he mentioned the Joint Meetings of the RID Committee of Experts and the UNECE Working party on the Transport of Dangerous Goods.

EU proposal to include text in section 1.3.5 with a proposal to discuss the organisation of the group:

The representative of the EU withdrew this proposal.

EU proposal to keep the text of section 5 on page 85 as a recommendation:

As the Secretariat explained the legal basis, and as a reference was added to the right-hand column, **the representative of the EU** withdrew this proposal because the issue was resolved.

EU proposal to rearrange Annex 4 of UTP GEN-D:

The representative of the EU withdrew this proposal as the problem was resolved.

There were no other proposals from the MS or organisations for amendments to UTP GEN-D.

Before the vote, the proxy arrived from the Former Republic of Macedonia, which nominated Serbia to represent it, which meant that the number of votes for the “restricted” quorum was exceeded by one.

The result of the vote on adopting UTP GEN-D, including all the amendments adopted during this session, was:

12 votes in favour, none against, no abstentions.

Conclusion:

UTP GEN-D, including the amendments adopted during this session, was unanimously adopted.

5.4.2 UTP GEN-G: COMMON SAFETY METHODS (CSM) FOR RISK EVALUATION AND ASSESSMENT (RA) (new)

The **Chairman** repeated that it was necessary to adopt the UTP GEN-G so that the role of assessing “safe integration” could be adopted, which would complete the package of OTIF regulations for freight wagons.

1. EU Proposals designated as “supported”:

EU proposal 1 to add text to section 2.1:

This proposal was tacitly adopted.

Conclusion:

At the end of the first sentence of section 2.1, add the following text: “*and which is considered to be significant within the meaning of Article 4 of this UTP*”.

EU proposal 3 to include Annex II of EU Commission Regulation 352/2009 in UTP GEN-G and text referring to it in section 6:

This proposal was tacitly adopted.

Conclusion:

The text of Annex II of EU Commission Regulation 352/2009 would be added to UTP GEN-G as Annex II. In section 6, text referring to Annex II would be added.

2. EU Proposals designated as “not supported”:

EU proposal 2 to amend the definition of proposer by adding railway transport undertakings in section 3(k):

The **Secretariat** explained that there was no equivalent to the EU Safety Directive in the OTIF regulations, which meant that COTIF did not include regulations requiring the railways of the non-EU OTIF MS to have certified Safety Management Systems in place. As a result, the request to implement the risk control measures in accordance with Article 4 of Directive 2004/49/EC was of no relevance to OTIF. The role of railway undertakings and infrastructure managers as applicants for a technical admission was already covered.

Following the Secretariat’s explanation, the **representative of the EU** withdrew this proposal and asked that the OTIF Secretariat’s comment on the EU proposal be included in the minutes:

“Under the COTIF Convention the RU and IM are not requested to apply risk assessment to their operational activities. This UTP GEN-G is a tool for the proposer and admitting authority in relation to the admission of vehicles to check safe integration”.

CER drew attention to the fact that the obligation to apply risk assessment procedures was included in Annex III, point 2.3 of EU Commission Regulation 445/2011 on a system of certification of entities in charge of maintenance for freight wagons and was also included in EU

Commission Regulation 352/2009. It requested that the OTIF regulations concerning CSM be analysed to ensure consistency between the EU and OTIF regulations.

EU proposal 4 to amplify the text at the end of section 9 involving ERA in the process of making proposals to revise UTP GEN-G:

The **Chairman** reminded the meeting that this issue again concerned coordination between the OTIF Secretariat and the European Commission. He proposed that this important issue be resolved by mandating the Secretariat, the Commission and ERA to discuss the procedure for further development of GEN-G.

This mandate was tacitly adopted.

The **representative of the EU** explained that the process to amend the Common Safety Method on Risk Evaluation and Assessment (CSM on RA) had an impact on ERA, as ERA had been mandated by the Commission to assess the text of the CSM on RA. The proposal for the OTIF regulations had anticipated that every Contracting State could make recommendations for text amendments to the CTE.

The **Secretariat's** comments indicated that proposals for amendments would already be available to ERA in WG TECH, to which ERA had always been invited and in which it had always participated. It agreed with the Chairman's proposal and asked that the minutes include a summary of the Secretariat's comments on this EU proposal, as follows:

“The Secretariat agreed that none of the texts in the EU and OTIF regulations should diverge. This was a general requirement for all UTPs. No specific legislation for coordination was necessary.

ERA would receive any future proposals, including those from the OTIF Member States, at WG TECH. ERA and a European Commission representative participated in WG TECH and in the Committee of Technical Experts.

This EU proposal addressed a deeper problem which still existed between OTIF and the EU in the process of developing railway regulations and it could not be resolved here. The Committee of Technical Experts should give WG TECH a corresponding mandate to resolve the problem.”

The **representative of the EU** then withdrew his proposal.

CER said there was a problem with section 4.1.1 on page 16, which corresponded to a similar EU provision to require a “hazard record”. The last paragraph, beginning with “If more than one operator ...” had been added to the left-hand column. According to CER, there were four problems in this regulation:

- it did not exist in the EU,
- the meaning of operator was unclear (railway undertaking, infrastructure manager, consignor or consignee),
- the obligation for the keeper did not exist in EU law,
- it was not possible to manage maintenance of the hazard record in cooperation with the operating railway undertaking (there are more than 300 of them).

CER proposed to delete this paragraph.

The **Secretariat** explained that the proposed rule was intended to give more detail to the obligation set out in the preceding sentence, which began: “*Once the system has been accepted ...*”. It was not clear who *the* railway undertaking in charge of the system was, as in OTIF regulations for international traffic, more than one RU usually operated the subsystem. He therefore thought it was unclear as to who was really responsible for this obligation. The responsibility should be clearly defined.

CER agreed with the Secretariat’s explanation, but as it had already mentioned, the problem was that the CSM system had been created before the ECM regulations. The ECM should be included in the obligation in addition to the IM and RU. CER nevertheless maintained its proposal to delete the paragraph.

The **representative of the EU** confirmed that no analogous rule existed in the EU regulations. Such a rule would cause problems for the EU OTIF MS, as in relations with third countries according to the accession agreement between OTIF and the EU, COTIF law would take precedence over EU law. The exchange of information was dealt with in section 4.2, including when more than one actor was involved. He supported the CER proposal to delete the paragraph.

RS commented that the EU Safety Directive included the obligation to apply SMS in section 4.1.1. For non-EU OTIF MS, this would cause problems of application, as there was no equivalent to the EU Safety Directive in the COTIF regulations. Furthermore, the paragraph it was proposed to delete contained a reference to a non-existent section 4.2.1.

The **Chairman** summarised that the proposed paragraph went too far in making the regulations more precise; it created roles and obligations which would cause uncertainty when applied in the railway industry and he thought it would be better to delete it.

The **Secretariat** understood the arguments put forward by CER, EU and RS. However, it asked that the minutes should include a statement to the effect that the CTE requested the EU to deal with the problem raised by CER and amend its regulations.

The **representative of the EU** did not understand the request to amend the EU regulations. He stated that there was no problem in the right-hand column, which required that the hazard record should continue to be maintained by the IM or RU as part of its safety management system. The problem arose from the OTIF regulations, because as it was not possible to refer to the Safety Directive, the Secretariat had amended this provision by adding the words “*if an SMS is applied*”. In the OTIF regulations, he proposed that the text should stop after the words “of the system under assessment”. This would make it clear that the RU or IM had to maintain the hazard record. In addition he supported the CER proposal to delete the following paragraph beginning with “*If more than one operator ...*”.

CER agreed with the proposed amendment, but asked that the minutes include its suggestion to include “*or ECM*” in addition to the IM or RU in the sentence describing maintenance of the hazard record.

Conclusion:

The following amendments to section 4.1.1 (page 16) were tacitly adopted.

- the text across both columns beginning with “*the system has been adopted and is operated*” would end after the words “*the operation of the system under assessment*”,
- the last paragraph in the left-hand column was deleted.

There were no other proposals from the MS or organisations for amendments to UTP GEN-G.

The result of the vote on adopting UTP GEN-G, including all the amendments adopted during this session, was:

12 votes in favour, none against, no abstentions.

Conclusion:

UTP GEN-G, including the amendments adopted during this session, was unanimously adopted.

The **Chairman** stated that the adoption of UTP ROLLING STOCK - NOISE and OTIF Rules for certification and auditing of the Entity in Charge of Maintenance were of equal importance, but adoption of the OTIF Rules for ECM was more urgent. His proposal to defer discussion on item 5.5 was unanimously adopted.

5.5 UPT NOI: ROLLING STOCK – NOISE (new)

Not dealt with. Postponed to next meeting of WG TECH.

6. OTIF rules for certification and auditing of the Entity in Charge in Maintenance (for adoption)

1. EU proposals designated as “supported”:

EU proposal 3: deletion of section 12.7:

EU proposal 4: deletion of text in Annex III, section 2.3 (page 14):

were tacitly adopted.

2. EU proposals designated as “partially supported”:

EU proposal 1: amendment of the definition of accreditation in section 3.2(a):

The **representative of the EU** agreed with the Secretariat’s comments and proposed to replace the words “*harmonised standards*”, which did not exist in the OTIF regulations, with “*technical standards (APTU Article 2 e) validated in accordance with APTU Article 5*” in the original EU proposal.

The **Secretariat** suggested referring to APTU for technical standards, as the term “*harmonised standard*” was not used in OTIF regulations.

The **representative of the EU** agreed with the Secretariat’s suggestion. He pointed out the risk of a divergence, because in the EU, a precise accreditation regime based on harmonised

standards had been set up, and in OTIF, standards validated according to APTU were referenced. This could lead to a situation where different standards were applied. He asked that the minutes contain a note to the effect that CTE would ensure that the accreditation system was based on the same standards.

CER commented that in the EU, the sectoral accreditation schemes referred to in section 6.2 would be approved by the EA (European co-operation for Accreditation) and asked where these sectoral accreditation schemes would be approved in OTIF.

The **representative of the EU** said that CER had raised an important issue and asked that the minutes reflect the fact that CTE would ensure not only that the accreditation system would be based on the same standards, but also that the approval system for the special EU and OTIF accreditation schemes would be harmonised.

The **Chairman** stressed that there was no other choice than to use the same standards, otherwise mutual recognition would not be possible. If the EU developed a standard first and CTE decided not to use it, there would be a hiatus in mutual recognition. The same situation would arise in the theoretical case that CTE developed a standard that was not acceptable to the EU. This was another reason for the Secretariat, the Commission and ERA to find a solution to establish cooperation between the Commission and OTIF.

CER pointed out that Article 2 e) could not be applied to EA as it was not an international standardisation body. Examples of standardisation bodies were ISO and CEN, in contrast to EAB, which was an accreditation body.

The **Chairman** reminded the meeting that the CTE was seeking a long term solution for cooperation on the validation of standards in the EU and OTIF area. In his opinion, this minor difference between a standardisation and an accreditation body was not relevant to this issue.

The **Secretariat** explained that according to Article 2 e) APTU, technical standards were those that would be validated by the CTE. The CTE could decide which standard should be used for the accreditation of an assessment body, such as EN17021 for administrative purposes or EN44653 for production companies. It would prefer to refer to the applicable standards in the UTP. The reference to EU Commission Regulation (EC) 765/2008 in the right-hand column concerned harmonised standards adopted in the EU. To resolve this issue, it suggested adding “*sectoral schemes approved by the Committee of Technical Experts*” in order to give CTE the choice of deciding which standards and which sectoral schemes would be applicable.

The **representative of the EU** agreed with the amendment to replace “*harmonised ISO/IEC, EN (CEN, CENELEC, ETSI) standards*” by “*technical standards (APTU Article 2 e)) validated in accordance with APTU Article 5*”. He opposed the Secretariat’s suggestion to add “*sectoral schemes approved by the Committee of Technical Experts*”, because this section concerned definitions and was not the right place to set out tasks for the CTE. To resolve the problem mentioned by CER, it would be sufficient to explain clearly in the minutes that the problem of who would approve the sectoral standardisation scheme should be resolved in cooperation between the Secretariat and the Commission.

In reply to the **Chairman’s** question as to who would approve the sectoral accreditation schemes in the EU, the **representative of the EU** said that this question had been discussed

in the EU. ERA was in touch with EA and a cooperation agreement was being negotiated. Formal adoption of the sectoral accreditation schemes was not foreseen.

The **deputy Secretary General** commented that the sectoral accreditation schemes seemed to entail some sort of legal obligation of an uncertain and unknown nature. He asked that the OTIF legal service be provided with information about the legal nature of the sectoral accreditation schemes as a matter of urgency so that they could be examined.

The **Chairman** said that the CTE had to consider the approval of the sectoral schemes. He said it would not be possible to take over the schemes for the railway sector without discussing them. Otherwise, this could lead to some uncertainty. This was the same issue as that concerning the list of composite brake blocks (item 5.3). The OTIF non-EU Member States might have concerns that decisions could be taken without their input. It was not possible at present to say whether these concerns were only theoretical, but they did exist. It was up to the Commission and Secretariat to make statements and find procedures to deal with these concerns.

The **representative of the EU** noted that there seemed to be some uncertainty as to how this question might be resolved in future. He agreed that the minutes should say that this issue should be discussed. He remained opposed to an amendment that would allow the CTE to approve the sectoral schemes. He considered that approval of the sectoral schemes in OTIF was a fundamental question that could not be resolved without discussion in the short time available at this CTE session. He proposed that this issue be discussed at the standing working group WG TECH, where all the elements could be analysed and ERA experts on accreditation matters, who were not present at this CTE, could be involved. Based on all the information, a proposal on who should approve the sectoral schemes in OTIF could be made.

As a possible solution, **CH** proposed to delete all the text after “*and, where applicable*” and to mandate the standing working group WG TECH to draft a proposal on the topic described in the deleted text.

The **Secretariat** explained that when it had drafted this regulation, it had taken the text from EC Regulation 765/2008 and had only amended it to reflect OTIF terminology. The text “*in relevant sectoral schemes (see point (n) below)*” taken from the EU regulation meant that in the EU, any sectoral scheme that was considered to be relevant could be applied without any approval. Copying such a rule would mean that no influence could be exerted on the schemes in OTIF either. The EA would decide the sectoral accreditation scheme. There had been cooperation between ERA and EA in drafting the sectoral accreditation scheme, which EA should decide on by November 2011. Responsibility for adopting these schemes should also be put in place within OTIF. The **Chairman** reminded the CTE that it was discussing an issue in connection with a document that did not yet exist.

CER supported the EU proposal to discuss the issue of approval of the sectoral accreditation schemes in the standing working group WG TECH before a decision was taken.

The **Chairman** reminded the meeting that the legal status of the sectoral schemes was unclear and he proposed that the EU should be asked to provide an explanation of the legal status at a later stage.

The **representative of the EU** repeated that as this was part of the definitions, it should not be obligatory. The sectoral schemes were not complete yet and he proposed to develop them

jointly, starting with a discussion at the next session of the standing working group WG TECH.

Conclusion:

The following amendment to section 3.2 was tacitly adopted:

Replace “*harmonised ISO/IEC, EN (CEN, CENELEC, ETSI) standards*” by “*technical standards (APTU Article 2 e)) validated in accordance with APTU Article 5*”

3. EU proposal designated as “not supported”:

EU proposal 2: amendment of the text in section 6.5:

The **Chairman** explained that this again concerned coordination between OTIF and the EU. The Secretariat thought cooperation and coordination between the Commission/ERA and OTIF was natural and saw no need to amplify the legal text in accordance with the EU proposal.

The **representative of the EU** withdrew this proposal.

The CTE mandated the Secretariat and the Commission/ERA to discuss cooperation in order to analyse any weak points in the organisation and facilitation of cooperation between the certification bodies.

RS comments; document CTE 4/INF.3:

Before explaining its comments, **RS** returned to EU proposal 3 (supported by the Secretariat) to delete section 12.7. It supported this proposal, but also proposed to delete sections 5.6 and 7.8 for the same reason (reference to the safety certification and safety authorisation), which was not required by OTIF.

The **Secretariat** understood the request made by RS. It saw no problem in section 5.6 as there was no reference to the safety certificate in the left-hand column. In the left-hand column of section 7.8, the reference to the Safety Certificate and Safety Authorisation in accordance with EU Directive 2004/49/EC was incorrect and should be deleted.

RS added that the provisions of section 7.8 and 5.7 conflicted with Article 15 § 2 ATMF, where a valid certificate was required for every ECM for a freight wagon, including in cases where the ECM was an RU or an IM.

The **Secretariat** agreed with the argument put forward by RS.

The **Chairman’s** proposal to delete the text in the left-hand column of section 7.8 was tacitly adopted.

The **Deputy Secretary General** asked why this provision should remain in the right-hand column with no equivalent text in the left-hand column. If this rule were to be applied in general, there would be lot of text in the right-hand column with no equivalent text in the left-hand column.

The **representative of the EU** supported the request made by RS to delete the text in the left-hand column of section 7.8. This was a procedure concerning RUs and as this procedure did not exist in COTIF, this text would have no meaning within OTIF. In reply to the question from the deputy Secretary General, he explained that as there was no equivalent to the Safety Directive in OTIF regulations, the absence of a text in the left-hand column should serve as a reminder for the future revision of the Convention. With regard to the deletion of section 5.6, he entered a reservation as he was unsure whether it would be useful to delete the whole text or to leave the first sentence.

The **Chairman** reminded the meeting that in the EU there were two options for assuring the function of ECM: ECM on its own or the function of ECM performed within the RU. No such options existed in the OTIF regulations, so it was right to delete the left-hand column in section 7.8.

CER thought section 5.6 was very important for RUs. If an ECM was not assigned to the freight wagon, then the RU had to assure that maintenance was carried out completely and correctly.

The **Chairman** disagreed with CER, arguing that in the OTIF system, there was a clear rule that every freight wagon had to be assigned an ECM before being admitted to operation. This assignment should be shown in the NVR register.

In reply to a question from **RS** as to whether the text in section 5.6 was to be kept, the **Secretariat** confirmed that it was.

Document CTE 4/INF.3 submitted by **RS** set out some concerns regarding the maintenance file. In the proposed rules, the ECM had to provide the first maintenance file. RS wondered if this meant that a second and third maintenance file existed?

The **Secretariat** explained that after checking the EU regulations on ECM, it understood that providing the first maintenance file meant that the ECM should compose the maintenance file. This was not consistent with the OTIF regulations. The maintenance file was a part of the technical file, which was an annex to the certificate of technical admission issued by the approving authority. It was therefore part of the authorisation. This meant that the first maintenance file had to exist before the ECM started its activities on the vehicle. The ECM should update the maintenance file with data relating to the performance of the wagon (how many km, how many thousand km or how many years the wagon had been in use, etc). The maintenance file should be kept up to date with these data and data concerning any inspections and overhauls in order to document the history of the wagon and the maintenance carried out on it. These data was of value to the supervising authority and if the wagon was sold and managed by another ECM, the latter would have the information concerning maintenance and could continue to update it.

CER explained that in the EU, the “authorisation for putting into service” and the first use of a wagon were not connected. When the manufacturer who built the wagon asked for “authorisation for putting into service”, he created a technical file with all the construction information and with a proposal for maintenance. This all happened before the wagon was in operation. Then the wagon was sold to the first user (operator), who would use it in operation. At that time a certified ECM had to be assigned to the wagon. This ECM would check the maintenance proposals in the technical file. The ECM might consider the proposals for maintenance

excessive when measured against its experience with a lot of such wagons. According to section 5 (c) of Annex III, section II the ECM could “*make proposals for and approve changes and their implementation, with a view to a decision based on clear criteria, taking into account the findings from risk assessment.*”. In the UTP GEN-G now adopted, it was the responsibility of the proposer to check whether the changes were significant or not. If the changes were significant he had to apply the risk management process and obtain approval from the NSA if necessary.

The **Chairman** commented that in view of the different opinions concerning the issue of the use of the maintenance file, it seemed that this document was not yet ready for adoption. In his view, the admitting authority need not be informed about the maintenance plans. The admitting authority examined the safety supervision of such plans. In a productive, useful system the ECMs were not obliged to submit the maintenance plans to the admitting authority every time they had effected a modification. This would be an extra administrative level which would slow down, and even obstruct the system.

CH’s understanding was that the request in the RS document was that the admitting authority should at least be informed of any changes to the maintenance specifications included in the Technical/Maintenance File. It was undisputable that according to national rules, the national authority was entitled to request the respective documents. It was questionable whether it was necessary to refer to this right in the regulations.

The **Chairman** recommended that the minutes should refer to the undisputable right of the national authority to have access to the maintenance plans. On the other hand, the ECM was not obliged to note all changes in the maintenance plans and always to submit all maintenance plans to the admitting authority, the effect of which would be that the admitting authority would be responsible for maintaining the wagon.

The **representative of the EU** noted the concerns expressed by RS. He confirmed that CER’s description of the procedure was correct. He made clear that the original maintenance file was created by the manufacturer and the ECM produced the first (in reality, the second maintenance file) and ensured the proper management of the maintenance file. The definition, content and management of the maintenance file were precisely described in chapter 4.2.8 of UTP WAG, which the meeting had adopted yesterday. The answer to the important question concerning the comments made by RS on whether the ECM could change the maintenance file on its own without any approval was yes, it could. This corresponded to the new approach that had been applied in the EU for four years, where all actors were assigned the task of ensuring safety. Every ECM was responsible for the maintenance and condition of a vehicle and could monitor the performance of a wagon and determine, for example, what a suitable maintenance interval for the wagon would be. On the other hand, there were many ways of checking the ECM’s work. The certification bodies had the supervisory role described in section 7 of ATMF Annex A. They had the obligation to supervise the work of an ECM on site on an annual basis. The NSA also had a supervisory role, as described in section 9 . If an NSA had a justified suspicion that an ECM was not complying with its requirements, it should immediately take the necessary steps to rectify the situation. This issue had been properly studied within the EU and there was sufficient arrangements to supervise the work of ECMs. The representative of the EU saw no need to modify the text, but he agreed that this issue should be clarified in the minutes.

The **Chairman** asked RS to withdraw its proposal against the background that the system was working, including in the non-EU OTIF MS. The national authority could not suddenly become responsible for maintenance, which would be the consequence of adopting the proposal by RS.

RS withdrew its proposal but still expressed concern as to how the admitting authority or competent authority, as it was called in ATMF, could supervise the work of an ECM. This was not a problem in the EU, but it was a problem in the non-EU OTIF MS. He did not think that the Convention contained any provisions for the competent authority to play a supervisory role.

The **Chairman** thanked RS for withdrawing its proposal and asked that the concerns expressed by RS be recorded in the minutes. He assured RS that its concerns would be dealt with, as this was an important issue.

The **Secretariat** suggested that in cases where the certification body had its headquarters in a different country to the ECM, there should be clear rules to ensure the proper supervisory function of such certification bodies, otherwise the supervisory function might not be clear.

CH proposed to mandate the standing working group WG TECH to carry out preparatory work to decide how the supervisory function of a certification body in a different country to the ECM could be ensured, and if necessary, to amend the regulations.

The **Chairman** asked the CTE to take a vote on the OTIF rules for ECMs in the knowledge that they had some weak and unclear points, but with the conviction that it was better that these rules should be temporarily in force, rather than being postponed for adoption at the next CTE session.

The result of the vote on adopting ATMF Annex A, including all the amendments adopted during this session, was:

12 votes in favour, none against, no abstentions.

Conclusion:

ATMF Annex A, including the amendments adopted during this session, was unanimously adopted.

7. Uniform format of certificates (Design Type Certificate & Certificate of Operation) - for adoption

Not dealt with. Postponed to the next session of WG TECH.

8. Notification of the national technical requirements according to Article 12 AP-TU

Not dealt with.

9. Consultation of non-EU OTIF MS on two TSIs:

- 1) Operation & Management (merged) and
- 2) Freight wagons revised

Not dealt with.

10. Vehicle Keeper Marking

10.1 Cooperation with OSJD

Not dealt with.

11. Vehicle Registers

11.1 Amendment of the specifications for the National Vehicle Registers (NVR) - for adoption

Not dealt with. Postponed to the next session of WG TECH.

11.2 Status of development of the NVRs in Contracting States

Not dealt with.

12. ATMF, Article 15 § 3 - “ensure or ascertain”

Not dealt with. Postponed to the next session of WG TECH.

13. Work programme of the Committee of Technical Experts for 2012 and 2013

This item was not dealt with as whole. The **Secretariat** underlined that a third person in the Technology Section would be necessary if the challenging work planned for 2012 and 2013 was to be completed.

14. Any other business

None.

15. Next session

All items that were not dealt with at this session would be on the agenda of the 5th session of CTE. At least one session of the standing working group WG TECH would be necessary to prepare the next session of CTE.

In view of the deadlines for sending out the invitation and documents, the **CTE** unanimously decided to hold its next session on 23 and 24 May 2012.

Closing of the session

The **Secretariat** explained that all documents that were available (on the OTIF website) before this session in all three languages would be notified to the MS after being amended according to the conclusions of this session. The documents that were not available (on the

OTIF website) before this session in all three languages (e.g. some of the UTP WAG Annexes) were adopted in the English version. After the English versions had been amended according to the conclusions of this session, translation into French and German would be completed. In order to save time before the next session of CTE, voting using the written procedure would take place before the MS were notified.

The **EU** thanked the chair for his excellent conduct of the discussions and thanked the non-EU OTIF MS for their patience and understanding in view of the number of comments the **EU** had made.

As one of the non-EU OTIF MS, **CH** underlined the good cooperation with the EU, which had tried to find solutions on a consensual basis in the interest of all OTIF MS, despite the majority that it would enjoy after all the declarations not to apply the APTU and ATMF Appendices had been withdrawn, and he asked the EU to continue such cooperation in future.

The **Chairman** closed the session by thanking the delegates from the Member States, the EU and the organisations for the productive discussions and for doing everything to find solutions in an atmosphere of cooperation. He also thanked the European Union and ERA for their constructive contributions, the Secretariat for the successful preparation and hard work and the interpreters for their work which was, as always, excellent.

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

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

**Commission d'experts techniques
Fachausschusses für technische Fragen
Committee of Technical Experts**

Berne/Bern, 14./15.09.2011

CTE 4 / PV

**Annexe I
Anlage I
Annex I**

Original : FR/DE/EN

**Liste des participants
Teilnehmerliste
List of participants**

Par souci d'économie, le présent document a fait l'objet d'un tirage limité. Les délégués sont priés d'apporter leurs exemplaires aux réunions. L'OTIF ne dispose que d'une réserve très restreinte.

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I. Gouvernements / Regierungen / Governments

Allemagne/Deutschland/Germany

Représenté par la France.
 Durch Frankreich vertreten.
 Represented by France.


Autriche/Österreich/Austria

Représenté par la Slovaquie.
 Durch die Slowakei vertreten.
 Represented by Slovakia.

Belgique/Belgien/Belgium

M./Hr./Mr. Michel **Lambermont**


Expert conseiller à la direction,
 NSA BE - Chef de l'unité Matériel Roulant
 Service Public Fédéral Mobilité et Transports
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Hat sich entschuldigt.
Sent apologies.

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Berne, 14./15.09.2011

CTE 4 / PVP

Annex II

Original : EN

List of documents

For reasons of cost, only a limited number of copies of this document have been made. Delegates are asked to bring their own copies of documents to meetings. OTIF only has a small number of copies available.

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4. Report from the Committee of Technical Experts working group WG TECH (for information)

A 92-03/1.2011 Report from the Committee of Technical Experts working group WG TECH - Activities since the 3rd session of CTE (February 2009)

5. Uniform Technical Prescriptions UTPs – (formerly called APTU Annexes) (for adoption)

- 5.1 Renaming of APTU Annexes in force as UTPs (according to APTU in force as of 01.12.2010)

A 94-00/5.2011 Renaming of the APTU Annexes in force as Uniform Technical Prescriptions

- 5.2 UTP GEN-B: DEFINITION OF SUBSYSTEMS (amendment)

A 94-01B/1.2011 UTP GEN-B UTP applicable to Rolling Stock, General provisions - SUBSYSTEMS

- 5.3 UTP WAG: ROLLING STOCK - FREIGHT WAGONS (new)

A 94-02/2.2011 and UTP WAG Annexes A, B, C, D, E, F, G, I, J, K, L, M, N, O, P, Q, R, S, Y, Z, BB, CC, EE, FF, II, JJ, LL, PP, VV, XX, YY and ZZ UTP Freight Wagons (UPT-WAG) and UTP WAG Annexes

- 5.4 UTP GEN-D: ASSESMENT PROCEDURES (MODULES) (new)

A 94-01D/2.2011 UTP GEN-D Assessment procedures (modules)

- 5.5 UTP NOI: ROLLING STOCK - NOISE (new)

A 94-04/2.2011 UTP NOI Rolling Stock – Noise

6. OTIF rules for certification and auditing of Entity in Charge of Maintenance (for adoption)

A 94-30/2.2011 OTIF rules for certification and auditing of the Entity in Charge of Maintenance (ECM)

7. Uniform format of certificates (Design Type Certificate & Certificate of Operation) (for adoption)

A 93-01/2.2011 Uniform format of certificates (Design Type & Operation)

8. Notification of the national technical requirements according to Article 12 APTU (for information)

A 92-01/2.2011 Status of the notifications of the national technical re-

quirements according to Article 12 of APTU

9. Consultation of non-EU OTIF MS on two TSIs:

- 1) Operation & Management (merged) and
- 2) Freight wagons revised
(for information)

A 94-00/8.2011 Consultation of non-EU OTIF Member States on the TSI Operation and Management (merged) and TSI Freight Wagons revised

10. Vehicle Keeper Marking

10.1 Cooperation with OSJD
(for information)

A 95-01/10.2011 Cooperation with OSJD

11. Vehicle Registers

11.1 Amendment to the specifications for the National Vehicle Registers (NVR)
(for adoption)

A 94-20/3.2011 National Vehicle Registers (NVR) amendments

11.2 Status of the development of the NVRs in the Contracting States
(for information)

A 94-20/4.2011 Status of development of the NVRs in the Contracting States

12. ATMF, Article 15 § 3 – “ensure or ascertain”
(for discussion)

A 93-01/1.2011 Proposal for amplification of the Explanatory notes to ATMF, Article 15

13. Work programme of the Committee of Technical Experts for 2012 and 2013
(for discussion)

A 92-03/2.2011 Work programme of the Committee of Technical Experts for 2012 and 2013