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**ORGANISATION INTERGOUVERNEMENTALE POUR  
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**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN  
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTER-  
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**Proposal to amplify the Explanatory Notes on Article 15 ATMF  
(for discussion)**

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## Background

CER submitted a proposal for the Explanatory Notes to ATMF Article 15 to the 14<sup>th</sup> session of the standing working group WG TECH. According to the decision of WG TECH, the OTIF Secretariat prepared this document for the 4<sup>th</sup> session of the Committee of Technical Experts based on the CER proposal. The adoption of this proposal is in the competence of the Revision Committee.

## Proposal to amplify the Explanatory Notes on Article 15 ATMF

### Article 15 Maintenance

1. § 1 sets out the objectives and elements of maintenance.
2. According to § 2, it is up to an accordingly instructed body (Entity in Charge of Maintenance – ECM), which must be registered in the data bank, to organise the maintenance of each vehicle. Such a body is also required according to the law of the EU (see Article 14a of the Railway Safety Directive 2004/49/EC, as amended by Directive 2008/110/EC).
3. For ECMs dealing with freight wagons, appropriate certification is mandatory. According to the OTIF regulation on certification of ECMs (A 94-30/3.2011) adopted at the 4<sup>th</sup> Committee of Technical Experts in September 2011 and the corresponding applicable law of the EU (see Commission Regulation (EU) No. 445/2011 of 10 May 2011 on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) No. 653/2007, in particular Article 7), the body certifying an ECM shall be responsible for the surveillance and initial assessment of that ECM. This does not affect (diminish) the rights/obligations which a competent authority has to inspect the ECM (including its contracted suppliers and the body which has issued the certificate, if any) according to the national law. The competent authorities shall cooperate.
 

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4. According to the applicable law of the EU (see in particular Article 5 § 6 of the Commission Regulation mentioned in paragraph 3 above) the certificates of ECM shall be accepted as proof of the ability of a railway undertaking (RU) or infrastructure manager (IM) to meet the detailed requirements governing maintenance and the control of contractors and suppliers, unless the national safety authority can demonstrate the existence of a substantial safety risk.
5. §§ 3 to 5 contain provisions regarding the interaction between the ECM and the operating railway undertakings, the Maintenance Record File and the possibility to specify further details in Annexes to the ATMF.
6. With regard to § 3, it should be noted that, in consisty with the applicable OTIF regulations and the law of the EU, the distribution of responsibility between the operating railway undertakings (RUs) and the ECM can be derived as follows (see in particular Articles 4 and 5 of the EU Commission Regulation No. 445/2011 mentioned in paragraph 3 above):
 

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  - a) A RU hauling the vehicle shall:
 

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    - carry out a procedure for checking basic information about the vehicle's maintenance, in particular whether for this vehicle an ECM is registered in the vehicle register and, in the case of a freight wagon, whether a valid certificate exists for this ECM covering the respective scope of use of the wagon, such as dangerous goods.,

- perform checks before the departure of a train, such as a brake test, composition of the train in conjunction with the route to be taken, “visual check” for technical deficiencies (including the equipment for securing the load on freight wagons) which might endanger safe (onward) carriage, check that the deadline for maintenance registered or marked on the vehicle has been observed, and,
- where necessary, perform the checks to be carried out en route and take appropriate action in case of operational incidents, e.g. a hot axle box or dangerous displacement of the load.
- ensure that it is able to hand over data to the ECM of the vehicle in due time, particularly on its operating performance (km, tonne.km), malfunctions, accidents, incidents, near-misses and other dangerous occurrences as well as on any restrictions on the use of the vehicle appeared, inspections and repairs made during the period when the vehicle has been in its charge.

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The risks controlled by the provisions above may alternatively be controlled through the RU's application of a Safety Management System, certified by the national authority competent for railway safety, in accordance with regulations equivalent to the regulations of the EU.

If these checks reveal deficiencies or problems related to safety, the RU must take appropriate measures, i.e. resolve the problem or refuse further carriage.

b) The ECM shall

- ensure that it is able to receive and use data from the respective RUs (see above), through its contractual agreements
- ensure that the updates concerning restrictions on the use of the wagon without delay are communicated to the interested entities/persons and/or (via the keepers access) included in the NVR and
- provide information on the maintenance of a freight wagon (possibly via the keeper) as requested from a RU for its operational purposes. This does not mean that the ECM would have to inform the RU of all its maintenance processes, which the RU is not responsible for checking.

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7. With regard to § 3, it should also be noted that, according to the applicable law of the EU, infrastructure managers operating freight wagons for own purposes shall be deemed to do so as an “operating railway undertaking” (see Article 2 § 3 of the Commission Regulation mentioned in paragraph 3 above).
8. According to § 4, the ECM shall, for each vehicle for which it is registered as the ECM, keep and update a Maintenance Record File to contain the information required in accordance with § 3 for that vehicle. This includes the vehicle itself and any tank fixed on the vehicle and equipment for which inspections and tests are required. This Maintenance Record File shall be available to the competent authorities for their ordinary inspections and investigations in the case of the vehicle being involved in incidents or accidents.
9. According to § 5, the CTE may adopt guidelines or regulations concerning maintenance workshops and include them in an Annex to ATMF.