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Zwischenstaatliche Organisation
für den internationalen
Eisenbahnverkehr (OTIF)

Intergovernmental Organisation
for International Carriage
by Rail (OTIF)

WG TECH

17th session

Minutes

Berne, 4-5.9.2012

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AGENDA

1. Approval of the agenda
2. Election of chairman
3. Approval of the minutes of the 16th session of WG TECH
Provisional minutes (with delegates' corrections)
4. Preparation of the 6th session of the Committee of Technical Experts
 - 4.1 Derogations

Document:	A 94-40/13.2012	Derogation rules according to Article 7a ATMF
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 - 4.2 Process for dealing with errors in UTPs

Document:	08/57 - DV22 version EN05	Draft working document; Guide for the application of Article 7 of Directive 208/57/EC on management of deficiencies in TSIs
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 - 4.3 Strategy and roadmap for the transposition of the new WAG TSI into UTP WAG

Document:	A 94-02/1.2012	New UTP WAG: Strategy and roadmap
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 - 4.4 Terms of reference for the transposition into OTIF regulations of safety certification and safety management provisions and principle (and possible creation of subgroup)

Document:	A 93-40/3.2012	Safety certification and management in OTIF regulations: Terms of reference
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 - 4.5 National technical requirements – notification, publication, EU - OTIF cooperation

Document:	A 92-00/1.2012	National technical requirements: Notification, publishing, EU - OTIF cooperation
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5. Any other business
6. Next session

DISCUSSIONS

Welcome by the Secretariat of OTIF

Mr Bas **Leermakers** welcomed the participants, including Mrs. Popovska from the Former Yugoslav Republic of Macedonia, who was participating in the working group for the first time, and he opened the session.

1. Approval of the agenda

The **Secretariat** explained that the provisional agenda had been sent to participants with the invitation on 21 June 2012 (circular **A 92-03/511.2012**). **RS** asked that the issue of who could be an ECM according to the OTIF regulations be discussed under item 5 (Any other business).

The **Secretariat** suggested amending item 5 to include the information concerning the consultation on the LOC & PAS and SRT TSIs.

CER proposed to change the order of items 4.4 and 4.5 so that the issue of transposing into the OTIF regulations the safety certification and safety management provisions and principles relating to the new UTP WAG would be discussed before the issue of national technical requirements.

WG TECH approved the agenda with these amendments.

2. Election of chairman

LU proposed Mr Roland Bacher (Switzerland) to chair this session. **WG TECH** unanimously elected Switzerland, in the shape of Mr Roland Bacher, to chair this session. Mr Bacher accepted the nomination.

3. Approval of the minutes of the 16th session of WG TECH

Document: **Provisional minutes (with delegates' corrections)**

The **Secretariat** had amended the provisional minutes in accordance with the corrections requested by the representative of the EU and CER.

Conclusion:

The minutes of the 16th session of WG TECH were approved.

4. Preparation of the 6th session of the Committee of Technical Experts

4.1 Derogations

Document: **A 94-40/3.2012** Derogation rules according to Article 7a ATMF

The Secretariat introduced the issue, which had been referred back to WG TECH by the 5th session of the Committee of Technical Experts.

Conclusions:

WG TECH asked the Secretariat to make the following amendments to the draft document:

1. Section 2 SCOPE: amend the section to explain the specific situation for vehicles intended to operate in both EU and non-EU Contracting States in accordance with case 3 of the section of the explanatory remarks dealing with the scope of application (page 7 of the document).
2. Section 3.1: restore the wording for 3.1 (c).
3. Explanatory remarks: Delete the last two sentences on page 6 (continuing on page 7) “*However, onlyin the file.*” as derogations would be applied by each CS individually.
4. Explanatory remarks, page 7: harmonise the text in all three cases using the wording “intended to be operated”. In addition, amend the third case to the effect that:
 - a. the applicant should identify all the CSs where the derogation would be needed for a particular vehicle project;
 - b. the relevant CSs should cooperate to harmonise the content of their requests;
 - c. EC and OTIF should cooperate with a view to reaching a common position regarding the harmonised requests.
5. Explanatory remarks, page 8: under ‘Procedure to be applied’: limit the example/process questions to four, in particular 1) renewal/upgrade, 2) scope of the UTP, 3) implementation strategy and 4) specific cases. The **Secretariat** would coordinate with **DE** concerning the proposal for amendment.
6. Annex B.2: rearrange the table to reflect more accurately the legal provisions.

4.2 Process for dealing with errors in UTPs

Document: **08/57 - DV22 version EN05** Draft working document; Guide for the application of Article 7 of Directive 2008/57/EC on management of deficiencies in TSIs

The representative of the EU presented the European Commission draft working document DV22 concerning the correction of deficiencies in TSIs. The document was distributed to all registered participants of the session before the session. He described the process, in which alleged deficiencies are classified and dealt with according to their classification. The document explained the tasks of ERA, the Commission and RISC. The resulting Commission Decision may cover amendments to several TSIs in one decision. The process was referred to as the ‘omnibus’ procedure.

The recent result of the omnibus procedure was a Commission Decision setting out amendments to several TSIs, including the TSI WAG. Consequently, the UTP WAG may also need to be amended in order to maintain equivalence between TSI and UTP.

The **Secretariat** presented the possibilities for dealing with deficiencies in the legal framework of COTIF. This would not necessarily require a decision in a CTE session, but could instead be dealt with by a vote using the written procedure.

In reply to a question from **DE**, the **Secretariat** said that the railway sector could also notify deficiencies in UTPs through their associations; in other words, it was not only States that could notify deficiencies.

DE underlined the importance of the ERA technical opinions (published on the ERA website) for the industry and asked that a similar solution be offered by OTIF.

Conclusion:

1. The **Secretariat** would prepare a document for the next session of WG TECH with a proposal on how to deal with deficiencies, with their classification, decision process, etc.
2. In the process of managing deficiencies, OTIF and ERA should cooperate from the beginning.
3. OTIF, the European Commission and ERA should consider (joint) publication of the technical opinions.

4.3 Strategy and roadmap for transposition of new WAG TSI into UTP WAG

Document: **A 94-02/1.2012**

New UTP WAG: Strategy and roadmap

The Secretariat introduced the subject by reminding the meeting of the main aspects in the scope of COTIF relevant to this subject and the main differences between the WAG TSI in force and the revised version.

In reply to the **Secretariat's** question as to the advantages of the revised WAG TSI, **ERA** explained that the purpose behind the revision was:

- to fit the requirements as close as possible to the essential requirements,
- to achieve more freedom for manufacturers and operators, in accordance with the principles of the “new approach”,
- to reduce legislation to a strict minimum,
- to give the sector the freedom to develop (innovative) solutions, instead of imposing mandatory technical solutions.

The representative of the EU explained that the revised WAG TSI had not yet been adopted (adoption procedure was underway). RISC had only voted in favour of the WAG TSI. The **Secretariat** would amend document A 94-02/1.2012 accordingly.

DE said that industry in Germany had indicated that it would benefit from the revised WAG TSI and that it wished to apply the revised WAG TSI as soon as possible (even before it entered into force).

DE added that there would have to be some analysis of what the RUs were obliged to do under their SMS when using wagons with level 1 compliance, compared to ‘RIV’ wagons.

RS underlined that the concept of the revised WAG TSI whose mandatory technical requirements were limited to running gear only, was not acceptable for non-EU member states. The international freight traffic between non-EU member states and between non-EU and EU member states is based on the exchange of wagons between RUs in the border stations. For that purpose wagons have to be compatible with each other and the only way to achieve this is to make the provisions of Annex C mandatory. The use of “special” wagons could be dealt with by means of bilateral or multilateral agreements or as special consignments and would not need to be covered in UTP regulations.

CER commented that there should be no difference between TSI and UTP and said it wished the revised WAG TSI to be transposed into UTP without any changes, and Appendix C should also be voluntary in the UTP.

Conclusion:

1. For the next session of WG TECH, ERA would prepare a document identifying the precise technical differences between wagons complying with the WAG TSI in force and wagons complying with level 2 or 3 of the revised WAG TSI. This document should clarify whether a UTP WAG compliant wagon would be equivalent to wagons compliant with level 2 or 3 of the revised TSI, or which requirements in addition to the UTP WAG would need to be complied with in order to establish such equivalence.
2. In parallel, the Secretariat would prepare the first draft of the (revised) UTP WAG in the two column format.
3. The specific activities relating to “safety management” which the IMs and RUs should perform when wagons with level 1 compliance were used should be analysed, taking into account the assignment of responsibilities and the main activities (not an exhaustive list).
4. On page 1 of document A 94-02/1.2012, (Introduction): ‘adopted’ would be replaced by ‘positively voted on by RISC’. On page 2, in the paragraph headed “Compliance with appendix C”: “rail transport undertaking” would be replaced by “applicant” and the last sentence would be deleted.

4.4 Terms of reference for the transposition into OTIF regulations of safety certification and safety management provisions and principles (and possible creation of a sub-group)

Document: **A 93-40/3.2012**

Safety certification and management
in OTIF regulations: Terms of refer-
ence

The **Secretariat** explained that the following safety requirements were already in the COTIF regulations:

- The safe construction of rolling stock was covered by provisions in APTU, ATMF and UTPs.
- The organisation of safe maintenance was dealt with in Article 15 ATMF in conjunction with ATMF Annex A (ECM regulation).
- According to Article 15 § 3 ATMF, the RU was responsible for safe operation and according to Article 6 § 2, it was responsible for route compatibility.
- The development of operational provisions (not yet developed) was included in the scope (Article 9 ATMF).

RS did not think the safety certification and safety management provisions and principles came within the scope of COTIF and that transposition would mean extending the scope. For that purpose the articles 2, 6, 17 and 20 should be amended and a new Appendix to COTIF be drafted. Such amendments could not be decided by CTE or Revision Committee, but by General Assembly only. This would mean that a new ratification process would have to be initiated.

It was noted that the Revision Committee was responsible for taking decisions on amendments to APTU and ATMF, with the exception of some Articles (APTU: Articles 1, 3 and 9 to 11 and the Annexes to these Uniform Rules; ATMF: Articles 1, 3 and 9). The session of the Revision Committee scheduled for autumn 2013 would provide the opportunity to adopt proposals from the 6th session of CTE to be held in June 2013.

DE drew the meeting's attention to the fact that the discussion on the EU's document DV29bis was comparable to the recent discussion in OTIF. DE suggested that the OPE TSI (future UTP OPE) should be taken into consideration in the discussion.

The representative of the EU said there should be no attempt to draft an exhaustive list of safety tasks. The EU regulations defined the responsibilities and the railway actors that are responsible for managing these responsibilities. The safety management system described how risks are to be managed.

Conclusion:

1. The ad-hoc working group SAFETY would be set up. It would report to WG TECH.
2. The first task was to analyse the need to transpose safety certification and safety management provisions and principles into OTIF regulations, and if they were to be transposed, the working group would have to consider how this should be done.
3. The members of the ad-hoc group SAFETY would be DG MOVE, ERA (Safety unit), OTIF, DE (to be confirmed), RS (to be confirmed and if not possible CH would try to confirm a delegate), CER (to be confirmed) and UIP (to be invited by the Secretariat).
4. The first meeting of the ad-hoc working group SAFETY would directly precede the 18th session of WG TECH (OTIF would send the invitation).
5. The Secretariat would participate in the work but not chair the group. It would provide the administrative support.
6. The Secretariat would update document **A 93-40/3.2012**.

4.5 National technical requirements – notification, publication, EU - OTIF cooperation

Document: **A 92-00/1.2012**

National technical requirements: Notification, publishing, EU - OTIF cooperation

In reply to a question from **the representative of the EU** on the purpose of this document, the **Secretariat** explained that the aim was to understand the rules concerning the notification of national technical requirements in the EU and in OTIF.

CER objected to several considerations inside the document.

The representative of the EU said the document contained interpretations of EU rules and that he did not share the same opinion on all of them and could not accept this document as such. He stressed the importance of the transparency of the rules and their availability to users. It was important to achieve this transparency and availability in the EU and OTIF by the end of 2012.

Conclusion:

1. The representative of the EU would send the Secretariat his detailed comments on the document before the next meeting.
2. For the next session of WG TECH, EU/ERA would prepare a presentation on the handling of national technical rules in the EU.

5. Any other business

5.1 Who can be an ECM

The **Deputy Secretary General** explained that in legal terms, there were two options for designating legal entities: exhaustive or non-exhaustive designation. Exhaustive designation meant that only the listed entities were eligible. Non-exhaustive designation left the list open. Non-exhaustive designation was usually preceded by wording such as “in particular” or “including”.

According to the second sentence of Article 15 § 2 (non-exhaustive designation), the answer to the question of who could be an ECM was that the types of bodies eligible were not limited to the three examples. According to the third sentence of Article 15 § 2, the obligation for ECM “*is ensuring that the vehicles for which it is in charge of maintenance are in a safe state of running by means of a system of maintenance*”.

In addition, ATMF Annex A (Certification and Auditing of ECM) applies, which sets out particular requirements for ECM which are in charge of the maintenance of freight wagons.

ECM in charge of maintenance of other types of rolling stock, such as locomotives, trainsets and coaches, are not legally required to meet the provisions of ATMF Annex A.

In the event of a dispute brought before a court on whether an ECM for types of rolling stock other than freight wagons had met its obligations, the court would most probably use ATMF Annex A as a reference.

5.2 Consultation of non-EU OTIF CSs on LOC & PAS and SRT TSIs

The **Secretariat** informed the meeting that it had received comments on the LOC & PAS and RST TSIs from Switzerland and it would forward these comments to the European Commission.

6. Next session

The **Secretariat** asked members of the working group whether they would be in favour of alternating the venue of WG TECH sessions. The Secretariat suggested the following: Berne, then venue A, Berne, then venue B, etc. taking into account participants' travelling time and costs. WG TECH welcomed this idea, provided that venues other than Berne would also be easily accessible from different points of departure.

WG TECH decided that its next session will be held on 7 and 8 November 2012 in Košice (Slovakia).

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
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**17th WG Tech
Berne, 4./5.09.2012**

PV - Annex I

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Teilnehmerliste
List of participants**

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S'est excusé.
 Hat sich entschuldigt.
 Send apologies.

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