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Zwischenstaatliche Organisation
für den internationalen
Eisenbahnverkehr (OTIF)

Intergovernmental Organisation
for International Carriage
by Rail (OTIF)

WG TECH

18th session

Minutes

Košice, 7-8.11.2012

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 - 4.2 Process for dealing with errors in UTPs

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5. Any other business
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DISCUSSIONS

Welcome by the Secretariat of OTIF

Mr Bas **Leermakers** welcomed the participants, including Mr Algan from Turkey, Mr Sklenář from Slovakia, Mr Ardiaca from ERA and Mr Franke from UIP, who were 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 27 September 2012 (circular **A 92-03/515.2012**). **The representative of the EU** asked that ERA's analysis of "differences old versus revised WAG TSI" be presented at the beginning of item 4.3.

WG TECH approved the agenda with this amendment.

2. Election of chairman

The **Secretariat** 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 17th session of WG TECH

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

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

Conclusion:

The minutes of the 17th 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 ver.03** Derogation rules according to Article 7a ATMF

The Secretariat explained that the draft document was updated to version 03 in accordance with the conclusions of 17th session of WG TECH. The main changes were in Section 2 Scope; text moved from the explanatory remarks in line with the principle that for the Contracting States (CS) which apply EU law, EU law applies and for other CS, ATMF Annex B applies. The explanatory remarks were updated in line with the discussion at the 17th session of WG TECH.

Conclusions:

WG TECH asked that the following amendments be made to the document:

1. On page 7 in 3), second sentence, delete the words “and mutually signed”.
2. On page 8, replace the numbering by bullets so as not to prejudice the order of questioning and delete the last sentence of the fourth bullet point “In addition,...required”

With these changes, WG TECH agreed the document and approved it for submission to the 6th session of the Committee of Technical Experts (CTE) for adoption.

4.2 Process for dealing with errors in UTPs

Document:	A 94-00/1.2012	Draft process for the correction of UTP deficiencies
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The **Secretariat** presented the document and stressed the importance of cooperation between EU and OTIF from the very beginning of the procedures for dealing with deficiencies in TSIs and UTPs.

Conclusion:

1. WG TECH agreed on the basic content of the document and asked the **Secretariat**, in cooperation with the EU, to change the flow chart in the document into the “two column layout”, thus linking the process with the process in the EU.

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

Documents:	EC	ERA analysis of revised WAG TSI interface with OTIF
	A 94-02/1.2012 ver.02	New UTP WAG: Strategy and roadmap
	A 94-02/2.2012	First draft of revised UTP WAG

WG TECH agreed with the **Chairman’s** proposal no longer to discuss document A 94-02/2012 ver.02 Strategy and roadmap.

The representative of the EU proposed that this document be used as an explanation of why it was necessary to transpose the WAG TSI revised into UTP. In this form, it could be submitted to the 6th session of CTE. The results of ERA’s analysis of the changes between the revised WAG TSI and the existing UTP/TSI WAG should be integrated into the document.

ERA (Mr Biasin) presented the results of the analysis of the changes between the revised WAG TSI and the existing UTP/TSI WAG:

In reply to the question of whether a wagon could be automatically considered as compliant with the revised WAG TSI if it complies with the previous WAG TSI or UTP WAG respectively, WG TECH agreed that:

- No straightforward affirmative answer can be given to the question
- The requirements in the revised WAG TSI had been made functional. However, further detailed investigation was necessary as the revised WAG TSI contains several additional specifications and basic parameters.

- As the revised WAG TSI refers to the most recent European standards, further detailed investigation by CEN and UIC experts would be necessary to fully understand the implications and answer the question. The previous WAG TSI referred either to European standards available before 2005 or referred in its Appendix to the content of UIC leaflets available before 2005.

As the revised WAG TSI allows a transitional period of three years, **ERA** proposed that the same transitional period be applied to wagons built in compliance with the existing UTP WAG. This would allow some additional time to bring the UTP into line with the revised TSI if necessary. If necessary, an additional transitional period might even be agreed between EC and OTIF. Solutions to the following issues should also be found:

- How to include requirements from articles of the legal act to which the TSI is annexed (the Commission Regulation) into OTIF regulations?
- How to refer to, or use in OTIF regulations the TSI Application Guide? Although this Application Guide has no legal status, it does set out harmonised ways to comply with the TSI. It would also be useful for application of the UTP.
- How to deal with references to ERA technical documents?
- How to synchronise the amendment procedures of EU and OTIF.

The **Chairman** concluded that the question of whether a wagon could be automatically considered as compliant with the revised WAG TSI if it complies with the previous WAG TSI or UTP WAG was not easy to resolve, and that not adopting the revised UTP WAG would jeopardise the mutual recognition of wagons. At present, it was not necessary for ERA to carry out any further investigations.

ERA thought that synchronisation of the amendment procedure between EU and OTIF was a key issue.

CER did not consider it necessary to introduce the Application Guide into the OTIF regulations.

The **Secretariat** underlined that no dynamic references were possible from the legal point of view, only static references, as long as the material referred to is publicly available and the version and date are made clear. By analogy, a UTP may refer to ERA technical documents when they meet these conditions. In the revised WAG TSI there are several static references to ERA technical documents, UIC leaflets and EN standards. One reference, the reference to the lists of fully approved composite brake blocks, was dynamic, and this raised the question of how it should be dealt with.

One of the main features of the revised TSI is the three possible levels of compliance.

1. Compliance with the core TSI in section 4, which mainly contains functional requirements; it allows for different technical solutions. The authorisation for placing into service needs to be obtained separately for each EU MS, because the revised WAG TSI contains three open points and one specific case which could have an impact on interoperability. This level of compliance is mandatory for all wagons.
2. Compliance with point 7.1.2 of the TSI provides a set of conditions aimed at closing the open points, dealing with specific cases and mitigating the concerns of some EU MSs relating to the freedom to use different technical solutions as provided for under section 4. It is not mandatory to comply with section 7.1.2, but if 7.1.2 is complied with in addition to compliance with section 4, this will result in the mutual recognition of the first authorisation, which makes the authorisation valid in all EU MSs.

3. Compliance with Appendix C is the third level of compliance, which is combined with a high level of technical harmonisation. It is not mandatory to comply with Appendix C, but meeting these requirements could be a help for the applicant to declare a wagon compatible and exchangeable with the existing fleet of ‘RIV’ wagons.

The **Secretariat** asked the meeting to decide which of the following options should be chosen to develop the revised UTP WAG

- a) Make Appendix C (level 3 compliance) mandatory by default for non-EU CSs, unless a State declares that its safety management arrangements are fully compatible with those in the EU.
- b) Make Chapter 7.1.2 (including some parts of Appendix C) mandatory (level 2 compliance) by default for non-EU CSs, unless a State declares that its safety management arrangements are fully compatible with those in the EU.
- c) Do not impose any restriction and allow the same technical freedom in the UTP as in the TSI.

Options a) or b) would mean more mandatory technical harmonisation in the OTIF regulations but with less freedom for innovative solutions.

For all options, but in particular for option c), some safety management principles would have to be included in the OTIF regulations. This could either be in the revised UTP WAG, or in another document.

RS commented that the level 1 compliance wagons could cause problems at the border with non-EU OTIF MSs as interconnectivity to other wagons and locomotives would not be guaranteed.

ERA suggested that this problem be resolved on a contractual basis (e.g. GCU) between the RUs.

The representative of the EU believed that the problem suggested by RS would not occur in practice, because any transport operation would be covered by a contract, so the receiving rail transport undertaking would know which kinds of wagon would arrive at the border.

ERA informed WG TECH that the new revision of OPE TSI was being prepared and was expected to be adopted soon and be applicable from 1 January 2014 (date synchronised with the revised WAG TSI).. This OPE TSI would no longer contain provisions concerning the numbering of wagons. The issue of numbering would be moved to the document on “NVR decision”. The provisions for marking of wagons would stay in the OPE TSI.

The **Secretariat** informed the meeting that Annex PPa would be reintegrated into the revised UTP WAG.

The **Chairman** expressed some concerns at limiting the freedom of choice of compliance with the revised UTP WAG by introducing Appendix C or the requirements of Chapter 7.1.2 as mandatory provisions for the non-EU OTIF MSs. It would be discriminatory for the industry. With regard to safety issues, he proposed that the Safety Certificate be introduced in the non-EU OTIF MSs.

The following comments on the first draft of the revised UTP WAG, document A 94-02/2.2012, were discussed:

- Comment by **the representative of the EU** on chapter 4.4 (page 26)
- **CER** comment on the beginning of page 4; no text in the left-hand column
- **CER** comment on Chapter 4.2.6.3.4 (page 17); no text in the left-hand column

- **CER** had more comments, but due to time constraints they could not be reviewed in the meeting. CER would send them to the Secretariat.

UIP explained that the TSI provisions in Chapter 4.2.6.3.4 on axle traceability had been included at the request of NSAs after the Viareggio accident.

In reply to the question from the **Chairman** as to whether the absence of any provisions in the left-hand column in Chapter 4.2.6.3.4 would mean that wagons would not be cross-accepted, **the representative of the EU** said that the mutual recognition of approvals would not be valid. It was therefore concluded that the left-hand column would need an equivalent requirement.

Conclusion:

1. For the 6th session of CTE, the **Secretariat** would make document A 94-02/1.2012 ver.02 Strategy and roadmap a document introducing the transposition of WAG TSI revised into UTP WAG. The ERA analysis and how to deal with level 1 (core TSI) compliance wagons would be included in this document.
2. Development of the revised UTP WAG regarding the levels of compliance would not deviate from the revised WAG TSI; i.e., the revised UTP WAG would not include the mandatory Appendix C or mandatory requirements in Chapter 7.1.2.
3. The transitional period of three years (for the purpose of authorisation) would be implemented in the revised UTP WAG.
4. By the next session of WG TECH, it would be necessary to find a solution concerning the “dynamic” references to ERA technical documents.
5. **CER** would send the Secretariat its comments on document A 94-02/2.2012, which were not discussed at this session due to time constraints.
6. With the assistance of **UIP**, the **Secretariat** would propose a provision for the left-hand column of Chapter 4.2.3.6.4 concerning the traceability of axles.
7. **The Secretariat** would introduce changes to the first draft of the revised UTP WAG, document **A 94-02/2.2012**, and issue a new version.

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

The **Secretariat** explained that the first deadline for the notification of national technical requirements (NTR) in force which the Contracting States wish to continue to apply on a mandatory basis was 1 March 2011 (three months after the revised APTU entered into force). Full notifications (summary and full text) had been received from Serbia and Switzerland. The 5th session of CTE decided to write to all Contracting States setting out a “second” deadline for notification (31 October 2012). The Secretariat sent circular A 92-00/501.2012 dated 13 August 2012 reminding the Contracting States (with the exception of the EU OTIF Contracting States) to notify their NTR. No further NTR were notified. The status of the notifications was the same as presented at the 5th session of CTE in May 2012.

ERA (Mr Ardiaca) presented the status of ERA Reference Document Database (RDD) and the next steps in its development. It was explained that two IT systems were in place; NOTIF-IT, based on Article 17(3) of Directive 2008/57/EC, and RDD, based on Article 27(3) of Directive 2008/57/EC.

NOTIF-IT contained the database for National Safety Rules and National Technical Rules (NTR). The aim of NOTIF-IT was to provide the Commission, EU MSs and ERA with a complete overview of railway legislation in the EU MSs. This database was maintained by DG MOVE.

RDD contained all NTR in use for the authorisation of vehicles, their cross-references and classifications. RDD would allow the stakeholders to have one overview of the different national rules applicable in different MSs, to see the equivalence (mutual recognition) of the national rules. RDD would support ERA in producing the Reference Document. RDD would be open for enquiries from the general public as of mid November 2012. The RDD contained information supplied by the EU MS, and the data were not checked in terms of their legal validity or conflict with other rules.

The **Secretariat** drew attention to the obligation of Contracting States to notify their national technical requirements according to Article 12 APTU and asked how the EU MSs complied with this obligation. It reminded that

- All NTR applicable to freight wagons would become obsolete as of 1 December 2012 when the UTP WAG would enter into force, unless they were renotified according to Article 12 APTU.
- With regard to the renotification of NTR which need to remain in force according to Article 12 APTU, Contracting States would have to provide the OTIF Secretariat with justification.

The representative of the EU considered that these obligations were met by providing public access to the EU OTIF Contracting States' national technical requirements without the need for direct notification to the OTIF Secretary General.

Conclusion:

1. The Secretariat would publish notified NTR on the OTIF website.
2. WG TECH would continue the discussion on the obligation of the EU OTIF Contracting States to notify their national technical requirements according to Article 12 APTU at its session in September 2013.

4.5 Ad-hoc SAFETY subgroup - report on results

Report on the results of the first meeting of the subgroup

Document: **A 93-01/3.2012 ver.03**

Terms of reference for the development of safety management and safety certification principles in OTIF regulations

The 1st meeting of the ad-hoc SAFETY subgroup took place just before the 18th session of WG TECH.

Mr Patrizio Grillo, **the representative of the EU**, who chaired the meeting, reported on the results of the meeting.

The ad-hoc SAFETY subgroup was created on the initiative of the 5th session of the Committee of Technical Experts and was set up at 17th session of WG TECH. The aim of the group was to analyse the possibilities for developing safety management and safety certification principles in OTIF regulations. Its tasks were defined in document **A 93-01/3.2012 rev.03** as follows:

- a) To analyse the differences between the EU and OTIF legal frameworks with regard to safety management and safety certification and the roles and responsibilities thereof.
- b) To report on the possible impact of these differences in the application of UTPs and other OTIF regulations. As a detailed ‘case study’, the application of SMS in relation to the safe operation of wagons built according to the revised WAG TSI should be analysed. This should provide a comprehensive understanding of the safety related issues which a rail transport operation has to manage in order to safely operate any wagon compliant with only the ‘core TSI’ (level 1) in comparison to an Appendix C compliant (‘RIV’) wagon.
- c) To draft a proposal to implement in OTIF regulations the minimum safety requirements needed for the safe operation of any wagon built according to the revised WAG TSI.
- d) To explore the need to amend or include equivalence between EU and OTIF regulations in the application of UTPs in OTIF regulations (ATMF and APTU), with a view to establishing full functional safety management.

The group thought this work should be carried out as a matter of urgency. The impact of developing safety management and safety certification principles in OTIF regulations should be clear before the revised UTP WAG was adopted at the 6th session of CTE in June 2013.

The group thought that the task under a) was of a more theoretical nature and needed to be studied in more detail.

A general discussion of the difficulties in adopting the revised UTP WAG revealed the following five issues:

1. Sufficiency of the provisions in COTIF concerning RU responsibilities for operation. Three provisions have already been identified, namely Articles 6 § 2, 9 § 1 and 15 § 3 ATMF.
2. The authorisation of level 1 (‘core TSI’¹) wagons without clear SMS aligned to the wagons.
3. Certainty that the safety level in the non-EU OTIF MSs could be maintained without SMS and Safety Certificate.
4. Definition of responsibility for train composition. The EU OPE TSI defined these responsibilities.
5. The possibilities available to RU not to carry wagons which have been authorised for operation (in the same MS).

¹ Because the content of the revised UTP WAG has not yet been decided, reference is made to the TSI. Presuming the UTP and TSI will remain equivalent, where TSI is mentioned, this can also be substituted with UTP.

Conclusion:

1. The Secretariat would develop these subjects in more detail in a draft document which would be distributed to the subgroup by mid December 2012 at the latest.
2. The next session of the SAFETY subgroup would take place in Belgrade on 15 January 2013.

5. Any other business

The **Secretariat** suggested that a standing item on information concerning the latest developments in EU regulations be included on the agenda.

The representative of the EU agreed with this suggestion and proposed that presentation of about 5 minutes be given on the latest developments in EU regulations.

WG TECH welcomed this initiative.

6. Next session

The next (**19th**) session of **WG TECH** will be held in **Berne** on **13 and 14 February 2013**.

The **6th** session of the **Committee of Technical Experts** will be held in **Berne** on **12 and 13 June 2013**.

At the kind invitation of Turkey, the next but one (**20th**) session of **WG TECH** will be held in September 2013 in Turkey.

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

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

**18th WG Tech
Košice, 7./8.11.2012**

PV – Annex I

**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


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Send apologies.

Bosnie-Herzégovine

M./Hr./Mr. Mirko **Vulic**

Senior Expert Associate
Railways Regulatory Board (Regulatorni Odbor
Željeznica)

Svetog Save bb
BA-74 000 Doboj

 +387 (53) 20 73 50
Fax +387 (53) 20 73 51
E-mail mirko.vulic@mkt.gov.ba

Italie/Italien/Italy

S'est excusé.
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Luxembourg

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Monténégro

M./Hr./Mr. Zoran **Vuković**

Advisor for International Affairs
Railway Directorate of Montenegro

Herzegovačka 75
ME-81000 Podgorica

 +382 (20) 23 21 27
Fax +382 (20) 23 21 28
E-mail zoran.vukovic@dzzcg.me


Pays-Bas/Niederlande/Netherlands

S'est excusé.
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SerbieM./Hr./Mr. **Milan Popović**


Senior Advisor for Transport Regulations
 Ministry of Infrastructure
 Directorate for Railways

Nemanjina 6
 RS-11000 Beograd

 +381 (11) 265 65 18
 Fax +381 (11) 361 82 91
 E-mail milan.popovic@raildir.gov.rs


Slovaquie/Slowakei/SlovakiaM./Hr./Mr. **Roman Sklenář**

Marketing Manager
 Železnická spoločnosť Cargo Slovakia, a.s.
 Drienová 24
 SK-821 01 Bratislava
 République slovaque

 +421 (2) 2029 32 39
 Fax +421 (2) 2029 76 54
 E-mail Sklenar.roman@zscargo.sk

SuisseM./Hr./Mr. **Roland Bacher**

Stellvertretender Sektionschef
 Bundesamt für Verkehr
 Sektion Zulassungen + Regelwerke
 CH-3003 Bern

 +41 (31) 324 12 12
 Fax +41 (31) 322 55 95
 E-mail roland.bacher@bav.admin.ch

TurquieM./Hr./Mr. **Murat Safa**

Mechanical Engineer, Assitant Director of
Traction Department
TCDD

TC Devlet Demiryollari
İşletmesi Genel Müdürlüğü Cer Dairesi
Başkanlığı
TR- 06330 Gar Ankara TÜRKIYE

☎ +90 (312) 444 2 233 - 232

Fax +90 (312) 310 99 49

E-mail muratsafa@tcdd.gov.tr

TurquieM./Hr./Mr. **Kamil Bayatli**

Expert
TCDD

TC Devlet Demiryollari
İşletmesi Genel Müdürlüğü Cer Dairesi
Başkanlığı
TR-06330 Gar/Ankara

☎ +90 (312) 444 8 233 - 232

Fax +90 (312) 310 99 49

E-mail tcddkamil@gmail.com

TurquieM./Hr./Mr. **Özgür Algan**


TCDD

İşletmesi Genel Müdürlüğü
Foreign Relations Department
Talatpasa Bulvari
TR- 06330 GAR-Ankara

☎ +90 (312) 309 05 - 15

Union européenneM./Hr./Mr. Patrizio **Grillo**


Deputy Head of Unit, Single European Rail Area
Unit
European Commission
CE - DG MOVE - B2
Rue de Mot 28
Office 4/51
BE-1049 Bruxelles

 +32 (2) 296 09 57
Fax +32 (2) 299 02 62
E-mail patrizio.grillo@ec.europa.eu

EU - ERAM./Hr./Mr. Denis **Biasin**

Head of Sector - Interoperability
European Railway Agency (ERA)



120, Rue Marc Lefrancq
BP 20392
FR-59307 Valenciennes Cedex

 +33 (3) 220 965 24
Fax +33 (3) 220 966 24
E-mail denis.biasin@era.europa.eu

EU ERAM./Hr./Mr. Felix **Ardiaca**

Head of Coordination Sector

120, Rue Marc Lefrancq
BP 20392
FR-59307 Valenciennes Cedex


 +33 (3) 270 965 51
 +33 (6) 78 96 80 50
Fax +33 (3) 270 966 51
E-mail felix.ardiaca@era.europa.eu

II. Organisations internationales gouvernementales Staatliche internationale Organisationen International governmental Organisations

CER

M./Hr./Mr. Bernard **Alibert**


Directeur Interoperabilité et Normalisation
SNCF
Direction Stratégie, Innovation, Recherche et
Regulation
Siège SNCF
34, rue du Commandant Mouchotte
FR-75014 Paris



 +33 (1) 53 25 35 03
Fax +33 (1) 53 25 30 68
E-mail bernard.alibert@sncf.fr

UIP

M./Hr./Mr. Stefan **Franke**

VTG Aktiengesellschaft
Safety Management
Nagelsweg 34
D-20097 Hamburg

 +49 40 2354-2308
Fax +49 40 2354-2300
E-mail stefan.franke@vtg.com

**III. Secrétariat
 Sekretariat
 Secretariat****M./Hr./Mr Bas Leermakers** +41 (31) 359 10 25
Fax +41 (31) 359 10 11
bas.leermakers@otif.org**M./Hr./Mr Peter Sorger** +41 (31) 359 10 26
Fax +41 (31) 359 10 11
peter.sorger@otif.org