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for International Carriage
by Rail (OTIF)

*Working document for the
Draft revision of
Appendix G of*
COTIF 1999
**Convention concerning
International Carriage
by Rail**

**as amended
by the Vilnius Protocol
in force from 1.7.2006**

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Introductory note

(this introductory note is not part of the draft revision of Appendix G)

The primary trigger for the ATMF revision are the conclusions of the ad-hoc safety subgroup which have been validated by the CTE. These conclusions led to a new Article 15a and a modified Article 17 § 1. Additionally to these two modification, and to benefit from the occasion of a revision the entire draft revised ATMF is brought up to standards with the latest developments. The latter concerns elements of consistency, update of references, etc.

- Make more explicit, the relation Contracting State → competent authority → assessing entity.
- Harmonise terms like “bodies recognised as suitable”, “the bodies”, authority carrying out technical admission”, “the bodies responsible for carrying out assessments”, “approving authority”, by replacing these terms as appropriate by either competent authorities or assessing entities.

version	changes
01	Initial version issued by OTIF Secretariat
02	Taking into consideration: <ul style="list-style-type: none"> • RS comments of 26.08.2013 (and reactions to DE, ERA and CER comments) • ERA comments of 10.09.2013 • DE comments of 16.09.2013 • CER comments of 09.09.2013 (until article 9) and of 26.09.2013 (from art.10 onwards)
03	Version issued as room document to the subgroup meeting of 18.10.2013
04	Version issued after subgroup meeting of 18.10.2013
05	Version issued after subgroup meeting of 28.10.2013

Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic (ATMF - Appendix G to the Convention)

Article 1 Scope

These Uniform Rules lay down, for railway vehicles and other railway material, the procedure for the admission to circulation or use in international traffic.

Article 2 Definitions

For the purposes of these Uniform Rules and their (future) Annex(es), the APTU Uniform Rules and their Annex(es) and the APTU Uniform Technical Prescriptions (UTP) the following definitions shall apply:

- a) “accident” means an unwanted or unintended sudden event or a specific chain of such events which have harmful consequences; accidents are divided into the following categories: collisions, derailments, level-crossing accidents, accidents to persons caused by rolling stock in motion, fires and others;
 - a1) “accreditation” means an attestation by a national accreditation body that a conformity assessment body meets the requirements set by European harmonised standards or applicable international standards and, where applicable, any additional requirements including those set out in relevant sectoral schemes, to carry out a specific conformity assessment activity.
 - a2) “accreditation body” means the sole body in a Contracting State that performs accreditation with authority derived from the State.
- b) “admission of a type of construction” means the right granted by which the competent authority authorises a type of construction of a railway vehicle, as a basis for the admission to operation for vehicles which correspond to that type of construction, as evidenced by a Design type Certificate;
- c) “admission to operation” means the right granted by which the competent authority authorises each railway vehicle or other railway material to operate in international traffic, as evidenced by a Certificate of Operation;
 - c1) “Certificate of Operation” means the attestation issued by the competent authority of an admission to operation including the conditions of the admission;
 - c2) “Certificate of verification” means the attestation issued by an assessing entity that verification has been carried out;

Comment [BL1]: Modifications to articles 1,3 and 9 (marked grey) are in the competence of the general assembly (therefore cannot be modified by the revision committee).

Comment [BL2]: Based on definition in EU Regulation 765/2008

Comment [BL3]: By comparison “Recognition” done by a competent national body other than the accreditation body (e.g. when no accreditation body exists in a country).

Comment [BL4]: For clarity the link between type of admission and type of certificate should be established

- d) “Committee of Technical Experts” means the Committee provided for in Article 13 § 1, f) of the Convention;
- da) “contracting entity” means any entity, whether public or private, which orders the design and/or construction or the renewal or upgrading of a subsystem. This entity may be a railway undertaking, an infrastructure manager or a keeper, or the concession holder responsible for carrying out a project;
- e) “Contracting State” means a Member State of the Organisation which has not made a declaration in respect of these Uniform Rules in accordance with Article 42 § 1, first sentence of the Convention;
- f) ~~“Design type certificate”~~ ~~“declaration”~~ means the ~~evidence attestation issued by the competent authority of an assessment or an element of assessments carried out to confirm that a vehicle, a~~ evidence attestation issued by the competent authority of the admission of a type of construction ~~or an element of construction complies with the provisions of the APTU Uniform Rules and its UTP (including applicable specific cases and national requirements in force according to Article 12 of the APTU Uniform Rules);~~
- g) “element of construction” ~~or also called “constituent”~~ “interoperability constituent” means ~~any~~ an elementary component, group of components, complete assembly or subassembly of equipment incorporated or intended to be incorporated into a railway vehicle, other railway material or infrastructure; the concept of an “element of construction” covers both tangible objects and intangible objects such as software;
- h) ~~“entity in charge of maintenance” or (“ECM”) means the entity that is in charge of the maintenance of a vehicle in accordance with Article 15, and is registered as such in the vehicle register according to Article 13; this definition also applies to other railway material; [reserved]~~
- i) “essential requirements” means all the conditions set out in ~~the APTU Uniform Rules~~ the relevant UTP, which must be met by the rail system, the subsystems and the interoperability constituents, including interfaces;
- j) “incident” means any occurrence, other than accident or serious accident, associated with the operation of trains and affecting the safety of operation;
- k) “infrastructure manager” means an undertaking or an authority which manages railway infrastructure;
- l) “international traffic” means the circulation of railway vehicles on railway lines over the territory of at least two Contracting States;
- m) “investigation” means a process conducted for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes (actions,

Comment [BL5]: The evidence is the certificate, not the declaration. The use of the term ‘declaration’ is ambiguous as ‘Declaration of verification’ is not mandatory in UTP GEN-D

Comment [BL6]: For two reasons the definition of ECM is deleted:
 1) The requirements for ECM become clear from art.15 and the ECM regulation.
 2) The original definition made the ECM conditional on the registration in the ECM. Although such registration is mandatory in art.15, the NVR is not operational in all CSs. The absence of an operational NVR should not result in ambiguity with respect to the ECM responsibilities.

omissions, events or conditions, or a combination thereof, which led to the accident or incident) and, when appropriate, the making of safety recommendations;

- n) “keeper” means the person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the vehicle register referred to in Article 13;
- o) “Maintenance File” means the document(s) that specify the inspections and maintenance tasks to be carried out on a ~~(type of) vehicle, –a type of construction,~~ or other railway material, which is set up according to the rules and specifications in the UTP including specific cases and notified national technical requirements in force, if any, according to Article 12 of the APTU Uniform Rules;
- p) “Maintenance Record File” means the documentation relating to an admitted vehicle or other railway material, which contains the record of its operating history and the inspections and maintenance operations that have been carried out on it;
- q) “network” means the lines, stations, terminals, and all kinds of fixed equipment needed to ensure safe and continuous operation of the rail system;
- r) “open points” means technical aspects relating to essential requirements which have not ~~explicitly~~ been covered in a UTP and are explicitly indicated as such in that UTP;
- s) “other railway material” means any movable railway material intended to be used in international traffic that is not a railway vehicle;
- t) “rail transport undertaking” or “railway undertaking”, means a private or public undertaking which is authorised or licensed by applicable law to carry persons or goods by rail and which ensures traction or provide services for the transport of goods and/or passengers by rail with a requirement that the undertaking must ensure traction; this includes undertakings which provide traction only;
~~which only ensures traction;~~
- u) “railway infrastructure” (or just “infrastructure”) means all the railway lines and fixed installations so far as these are necessary for the compatibility with and safe circulation of railway vehicles ~~and other railway material~~ admitted according to these Uniform Rules;
- v) “railway material” means railway vehicles, other railway material and railway infrastructures;

Comment [BL7]: UTPs must be explicit on the open points, as it must be clear to all what are the open points.

Comment [BL8]: There seems no practical use of this term, all movable railway material used in international traffic is covered by ‘railway vehicle’. However modifying this term would also result in modifying articles 1, 3 or 9 which is in the competence of the General assembly. It is therefore more pragmatic to leave this definition so that the changes remain in the competence of the revision committee.

If definition is kept, it may be useful to clarify that it concerns ‘materials’ that are used in combination with vehicles, but which are not permanently attached to the vehicles. E.g. container, cover, fixation.

Comment [BL9]: railway undertaking is also used in the ATMF and the Convention at several places

Comment [BL10]: To be more in line with EU Directive 2001/14 EC.

w) “railway vehicle” means a vehicle suitable to circulate on its own wheels on railway lines with or without traction;

w1) “recognition” means:

1. the acknowledgment by a competent national body other than the accreditation body that an entity meets the applicable requirements, or

2. the acceptance by a competent authority of certificates, procedural documentation or test results which are issued by an entity from another Contracting State;

x) “regional organisation” means an organisation as defined in Article 38 of the Convention within the exclusive competence that Contracting States have ceded to it;

y) “renewal” means any major substitution work on a subsystem or part subsystem which does not change the overall performance of the subsystem;

~~ya) “RID” means Appendix C to the Convention;~~

z) “serious accident” means any train collision or derailment of trains, resulting in the death of at least one person or serious injuries to five or more persons or extensive damage to rolling stock, the railway infrastructure or the environment, and any other similar accident with an obvious impact on railway safety regulation or the management of safety; “extensive damage” means damage that can immediately be assessed by the investigating body to cost at least 1.8 million SDR in total;

aa) “specific case” means any part of the rail system of the Contracting States ~~which is -needs indicated as a special provisions~~ in the UTP, either temporary or definitive, because of geographical, topographical or urban environment constraints or those affecting compatibility with the existing system. This may include in particular railway lines and networks isolated from the rest of the network, the loading gauge, the track gauge or space between the tracks as well as vehicles and other railway material strictly intended for local, regional or historical use, and vehicles and other railway material originating from or destined for third countries;

bb) “subsystems” means the result of the division of the rail system, as shown in the UTP; these subsystems, for which essential requirements must be laid down, may be structural or functional;

cc) “technical admission” means the procedure carried out by the competent authority to authorise a railway vehicle or other railway material to operate in international traffic or to authorise ~~the a~~ type of construction;

dd) ~~[reserved] “technical certificate” means the official evidence of a successful technical admission in the form of a valid Design Type Certificate or a valid Certificate of Operation;~~

Comment [BL11]: This type of recognition is used in Articles: 5§3, 13§2, 15§2

Comment [BL12]: This type of recognition is used in Articles: 6a, 6b

Comment [BL13]: Superfluous to cross-refer the meaning of each Appendix in every other Appendix.

Comment [BL14]: It is important to stress that not the ‘need’ validates a specific case, but the indication of it in the UTP.

Comment [BL15]: This definition is deleted, as both the design type certificate and certificate of operation are included in the definition. It is clear from e.g. Art.11 that technical certificates concern both DTC and CoO.

- ee) “Technical File” means the documentation relating to the vehicle or other railway material containing all its ~~(the type’s)~~ technical characteristics, including a user manual and the characteristics necessary to identify the object(s) concerned as described in the relevant UTP;
- ee1) “Train” is a formation –of one or more railway vehicles provided with traction, and operated – under the responsibility of a rail transport undertaking;
- eea) “TSI” means Technical Specification for Interoperability adopted in accordance with Directives 96/48/EC, 2001/16/EC and 2008/57/EC by which each subsystem or part of a subsystem is covered in order to meet the essential requirements and ensure the interoperability of the rail system;
- ff) “type of construction” means the basic design characteristics of the railway vehicle or other railway material as covered by a ~~single~~-type examination certificate or design examination certificate described respectively in assessment module SB and SH1 of the UTP GEN-D;
- gg) “upgrading” means any major modification work on a subsystem or part subsystem which improves the overall performance of the subsystem.

Comment [BL16]: This definition is introduced to distinguish between a ‘vehicle’ which is a technical product, and a ‘train’ which is an operational consist of a (set of) vehicle(s) operated by a RU, and subject to operational rules.

The definition of ‘train’ is relevant for introducing the responsibilities for safe operation of the RU

Article 3

Admission to international traffic

- § 1 Each railway vehicle must, for circulation in international traffic, be admitted in accordance with these Uniform Rules.
- § 2 The technical admission shall have the aim of ascertaining whether the railway vehicles satisfy
- the construction prescriptions contained in the UTP,
 - the construction and equipment prescriptions contained in RID,
 - the special conditions of an admission under Article 7a.
- § 3 §§ 1 and 2 as well as the following articles shall apply mutatis mutandis to the technical admission of other railway material and of elements of construction either of vehicles or of other railway material.

Article 3a

Interaction with other international agreements

- § 1 Railway vehicles and other railway material which have been placed in service according to applicable European ~~Community~~Union (ECU) and corresponding national legislation shall be deemed as admitted to operation by all Contracting States according to these Uniform Rules
- in the case of full equivalence between the provisions in the applicable TSIs and the corresponding UTP and

- b) provided the set of applicable TSIs, against which the railway vehicle or other railway material was authorised, cover all aspects of the relevant subsystems that are part of the vehicle and
- c) provided these TSIs do not contain open points related to the technical compatibility with infrastructure and

d) provided the vehicle or other railway material is not subject to a derogation and-

e) provided the vehicle is not subject to specific cases which limit the conditions of admission.

If these conditions a) to e) are not fulfilled, the vehicle or other railway material shall be subject to Article 6 § 4.

§ 2

Railway vehicles and other railway material which have been admitted to operation according to these Uniform Rules shall be deemed as placed in service in the Member States of the European CommunityUnion and in the States which apply CommunityUnion legislation as a result of international agreements with the European CommunityUnion in the case of

- a) full equivalence between the provisions in the applicable UTP and the corresponding TSIs and
- b) provided the set of applicable UTP against which the railway vehicle or other railway material was authorised covers all aspects of the relevant subsystems that are part of the vehicle and
- c) provided these UTP do not contain open points related to the technical compatibility with infrastructure and

d) provided the vehicle or other railway material is not subject to a derogation and

e) provided the vehicle is not subject to specific cases which limit the conditions of admission.

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If these conditions a) to e) are not fulfilled, the vehicle or other railway material shall be subject to authorisation according to the law applicable in the Member States of the European CommunityUnion and in the States which apply CommunityUnion legislation as a result of international agreements with the European CommunityUnion.

§ 3

The admission to operation/authorisation for placing in service, the operation and the maintenance of railway vehicles and other railway material being intended to be used only in Member States of the European CommunityUnion are regulated by the applicable CommunityUnion and national legislation. This provision is also applicable to Contracting States which apply relevant European CommunityUnion

Comment [BL17]: It should be noted that some specific cases are restrictive, with the result that a 'standard' UTP/TSI vehicle cannot be authorized in a CS and other specific cases are permissive; allowing wider margins than those defined in the UTP/TSI. In the latter case the specific case does not restrict the admission of a standard vehicle. For this reason it is proposed to use the wording 'taking into account specific cases'.

Comment [BL18]: better to use the EU terminology as the § is about application of EU law.

legislation as a result of international agreements with the European ~~Community~~Union.

§ 4 §§ 1 to 2 apply mutatis mutandis to admissions / authorisations of vehicle types.

§ 5 An entity in charge of maintenance (ECM) for a freight wagon, certified according to Article 15 § 2, shall be deemed as certified according to applicable European ~~Community~~Union and corresponding national legislation and vice versa in the case of full equivalence between the certification system adopted under Article 14a (5) of the ~~EC~~EU Railway Safety Directive 2004/49/EC and rules adopted by the Committee of Technical Experts according to Article 15 § 2-. These adopted rules are set out in (Annex A to ATMF).

Article 4 Procedure

§ 1 Technical admission of a vehicle shall be carried out

- a) either in a single stage by the granting of admission to operation to a given individual vehicle,
- b) or in two successive stages, by the granting
 - of admission of a type of construction to a given type of construction,
 - subsequently an admission to operation to individual vehicles corresponding to this type of construction by a simplified procedure verifying that they are of this type.

§ 2 A vehicle or an element of construction shall be assessed for compliance with the provisions of the UTP and applicable national technical requirements. The assessment procedures and content of UTP certificates are set out in the relevant UTP
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The Committee of Technical Experts shall be competent to amend or revoke the assessment procedures and the content of UTP certificates.

The assessments of the conformity of a vehicle ~~or an element of construction~~ with the provisions of the UTP on which the admission is based may be divided into certain parts or checked at certain stages by the assessing entity assessment elements each evidenced by an declaration/intermediate statement of verification. ~~The assessment elements and the format of the declaration shall be defined by the Committee of Technical Experts.~~

§ 3 The procedures for the technical admission of railway infrastructure are subject to the provisions in force in the Contracting State in question.

Article 5

Comment [BL19]: It seems important to introduce here the basic procedure for UTP assessment.

It then can be referred to in e.g. Article 10

Comment [BL20]: ISV only applies to subsystems not to ICs

Competent authority

§ 1 The technical admission shall be the task of the national or international authority competent in the matter in accordance with the laws and prescriptions in force in each Contracting State, hereafter named competent authority:-

§ 2 The ~~authorities referred to in § 1~~ competent authorities may or, according to the provisions in force in their State, shall transfer to assessing entities the to bodies with residence in their State recognised as suitable, competence to carry out assessments as a whole or partly, including the issuing of the corresponding certificates of verification ~~declarations~~.

The transfer of competence to

- a) a rail transport undertaking,
- b) an infrastructure manager,
- c) a keeper,
- d) an entity in charge of maintenance (ECM),
- e) a designer or manufacturer of railway material participating directly or indirectly in the manufacture of railway material,

including subsidiaries of the foregoing entities shall be prohibited.

§ 3 In order to be recognised or accredited as ~~suitable the bodies~~ an assessing entity mentioned in § 2 ~~must fulfil~~ the following conditions must be fulfilled:

a) ~~The body assessing entity must be independent in its organisation, legal structure and decision making from any railway undertaking, infrastructure manager, applicant and procurement entity; its Director and the staff responsible for carrying out the assessments or issuing certificates and declarations may not become involved, either directly or as authorised representatives, in the design, manufacture, construction or maintenance of the constituents, vehicles or railway material or in the use thereof. This does not exclude the possibility of an exchange of technical information between the manufacturer or constructor and that body.~~

b) ~~a) The body and the staff responsible for the assessments shall carry out the assessments with the greatest possible professional integrity and the greatest possible technical competence and shall be free of any pressure and incentive, in particular of a financial nature, which could affect their judgement or the results of their inspection, in particular from persons or groups of persons affected by the results of the assessments.~~

b) In particular, the body assessing entity and the staff responsible for the assessments shall be functionally independent of the bodies in charge of investigations in the event of accidents;

Comment [BL21]: Deleted text covered by GEN-E

Comment [BL22]: Idem

- c) The assessing entity shall meet the requirements as set out in the relevant UTP GEN E.:
- d) ~~The body shall employ staff and possess the means required to perform adequately the technical and administrative tasks linked to the assessments; it shall also have access to the equipment needed for exceptional assessments.~~
- e) ~~The staff responsible for the assessments shall possess~~
 - ~~— proper technical and vocational training,~~
 - ~~— satisfactory knowledge of the requirements relating to the assessments that they carry out and sufficient practice in those assessments and~~
 - ~~— the ability to draw up the certificates, records and reports which constitute the formal record of the assessments conducted.~~
- f) ~~The independence of the staff responsible for the assessments shall be guaranteed. No official must be remunerated on the basis of the number of assessments performed or of the results of those assessments.~~
- g) ~~The body shall procure civil liability insurance unless that liability is covered by the State under national law or unless the assessments are carried out directly by that Contracting State.~~
- h) ~~The staff of the body shall be bound by professional secrecy with regard to everything they learn in the performance of their duties (with the exception of the competent administrative authorities in the State where they perform those activities) in pursuance of these Uniform Rules or any legal requirement and/or regulations of the Contracting State, including, where appropriate, the law of the European Community.~~

Comment [BL23]: Now covered in GEN-E

§ 4 The requirements of § 3 shall apply mutatis mutandis to the competent authorities regarding the tasks mentioned in § 2 which have not been transferred to an assessing entity, carrying out technical admission.

§ 5 A Contracting State shall ensure, by notification or where appropriate by the means provided for in the law of the European CommunityUnion or in the law of the States which apply CommunityUnion legislation as a result of international agreements with the European CommunityUnion, that the Secretary General is informed of the the competent authority, the bodies assessing entities and, if applicable the accreditation body, or the competent national body referred to in Article 2 w1) responsible for carrying out the assessments, verifications and approvals, indicating each body's area of responsibility. The Secretary General shall publish a list of bodies competent authorities, assessing entities, and accreditation bodies, or competent national bodies, their identification numbers, if applicable, and areas of responsibility, and shall keep the list updated.

§ 6 A Contracting State shall ensure the consistent supervision of the bodies-assessing entities indicated in § 2 and shall withdraw the competence from a body which no

longer meets the criteria referred to in § 3, in which case it shall immediately inform the Secretary General thereof.

- § 7 Should a Contracting State consider that an assessing ~~entity or approving competent authority of another Contracting State, or a body having competence transferred from it,~~ does not meet the criteria of § 3, the matter shall be transferred to the Committee of Technical Experts which, within four months, shall inform the Contracting State in question of any changes that are necessary for the body to retain the status conferred upon it. In relation to this, the Committee of Technical Experts may decide to instruct the Contracting State to suspend or withdraw ~~approvals–technical certificates~~ made on the basis of work done by the body or by the authority in question.

Article 6 Validity of technical certificates

- § 1 Technical certificates, as specified in Article 11, issued by the competent authority of a Contracting State in accordance with these Uniform Rules, shall be valid in all the other Contracting States. However the circulation and use on the territories of those other States shall be subject to the conditions specified in this Article.

- § 2 An admission to operation allows the rail transport undertakings to operate a vehicle only on infrastructures compatible with the vehicle according to its specifications and other conditions of the admission; it is the responsibility of the rail transport undertaking to ensure this.

- § 3 Without prejudice to Article 3a an admission to operation issued for a vehicle which is in conformity with all applicable UTP shall permit the vehicle free circulation on the territories of other Contracting States provided that

- a) application of the UTP ensures that the vehicle meets all relevant essential requirements in its design operating state are covered in these UTP, and
- b) the vehicle is not subject to
 - a specific case which affects the technical compatibility with the network of the Contracting State concerned or
 - open points that are related to technical compatibility with the infrastructure or
 - a derogation.

The conditions for the free circulation may also be specified in the relevant UTP.

- § 4 a) Where in a Contracting State an admission to operation has been issued for a vehicle which is
- subject to a specific case, an open point which is related to the technical compatibility with the infrastructure or a derogation, or

Comment [BL24]: Some ERs are not related to vehicles and thus not relevant

Comment [BL25]: ERs should be met when a vehicle is not only designed and constructed in compliance with the UTP, but additionally used in accordance with its technical file.

Comment [BL26]: A specific case does not necessarily have to limit free circulation of a vehicle subject to the specific case.

E.g. the network gauge on the UK mainlines is smaller than the TSI standard. A vehicle compliant with this UK specific case therefore must have a small gauge, which does not limit its UTP compliance nor its compatibility with other lines.

- not in conformity with the UTP on rolling stock and all other relevant provisions, or

b) where not all essential requirements are covered in the UTPs,

the competent authorities of the other States may ask the applicant for additional technical information such as risk analysis and/or vehicle tests before granting a complementary admission to operation.

For the part of the vehicle which is compliant with a UTP or part of it, the competent authorities have to accept verifications that have been made by other competent authorities according to the UTP. For the other part of the vehicle the competent authorities shall take full account of the equivalence table referred to in Article 13 of the APTU Uniform Rules.

The fulfilment of

- a) identical provisions and provisions declared equivalent,
 - b) provisions not related to a specific case and
 - c) provisions not related to the technical compatibility with infrastructure,
- shall not be assessed again.

§ 5 §§ 2 to 4 shall apply mutatis mutandis to an admission of a type of construction.

Article 6a Recognition of procedural documentation

§ 1 Assessments, declarations and other documentation made according to these Uniform Rules shall be recognised at face value by the authorities and competent bodies, the rail transport undertakings, the keepers and the infrastructure managers in all the Contracting States.

§ 2 If a requirement or a provision has been declared as equivalent in accordance with Article 13 of the APTU Uniform Rules related assessments and tests which have already been carried out and documented shall not be repeated.

Article 6b Recognition of technical and operational tests

The Committee of Technical Experts may adopt rules for inclusion in an Annex to these Uniform Rules and requirements for inclusion in one or more UTPs concerning the provisions for and the mutual recognition of technical inspections, maintenance record files for the admitted vehicles and operational tests such as train braking tests.

Article 7 Prescriptions applicable to vehicles

§ 1 In order to be admitted ~~and remain admitted~~ to circulation in international traffic, a railway vehicle must satisfy

- a) the applicable UTPs and
- b) where applicable, the provisions contained in RID.

§ 1a Vehicles shall comply with the UTPs in force at the time of admission, upgrading or renewal, in accordance with these Uniform Rules; this compliance shall be permanently maintained while each vehicle is in use.

§ 2 In the absence of UTPs applicable to the subsystem, the technical admission shall be based on the applicable national technical requirements in force according to Article 12 of the APTU Uniform Rules in the Contracting State in which an application for technical admission is made.

§ 3 If the UTPs do not cover all essential requirements or in the case of specific cases or open points, the technical admission shall be based on

- a) the provisions contained in the UTPs,
- b) where applicable, the provisions contained in RID and
- c) applicable national technical requirements in force according to Article 12 of the APTU Uniform Rules.

**Article 7a
Derogations**

The Committee of Technical Experts ~~shall be competent to~~ adopt guidelines or mandatory provisions for derogations from ~~the provisions of Article 7 and for the assessment methods that may or shall be used~~ structural and functional UTPs.

The guidelines and provisions are set out in Annex B to these Uniform Rules.

**Article 8
Prescriptions applicable to railway infrastructure**

§ 1 To ensure that a railway vehicle admitted to international traffic in accordance with these Uniform Rules will run safely on and be compatible with the railway infrastructure to be used, this railway infrastructure must satisfy

- a) the provisions contained in the UTP and
- b) where applicable, the provisions contained in RID.

§ 2 Admission of infrastructure and supervision of its maintenance remain subject to the provisions in force in the Contracting State in which the infrastructure is located.

§ 3 Article 7 and 7a shall apply mutatis mutandis to infrastructure.

Comment [BL27]: The original text ambiguous. The admission is a 'snap shot' for which compliance with the rules is assessed at one point in time. 'remain admitted' seems to indicate there is a continuous process linked to admission, which is not the case. After admission the keeper, ECM and RU are responsible for ensuring the vehicle is well maintained and kept in a condition suitable for operation. There is not such a thing as 'remaining admitted'. See also Art.10§9.

Article 10a covers suspension and withdrawal of certificates after admission in case this is needed.

Comment [BL28]: To compensate for the modification in §1

Comment [BL29]: Annex B covers derogations.

Article 9
Operation prescriptions

§ 1 The rail transport undertakings which operate railway vehicles admitted to circulation in international traffic shall be required to comply with the prescriptions relating to the operation of a vehicle in international traffic, specified in the UTP

§ 2 The undertakings and administrations which manage infrastructure in the Contracting States, including operational safety and control systems, intended and suitable for operation in international traffic, shall be required to comply with the technical prescriptions specified in the UTP and satisfy them permanently in respect of the construction and the management of that infrastructure.

Article 10

Application and granting of technical certificates and declarations and related conditions

§ 1 The grant of a technical certificate shall be related to the type of construction of a railway vehicle or to the railway vehicle itself.

§ 2 ~~An application~~The applicant for a technical certificate may be made by:

- a) the manufacturer,
- b) a rail transport undertaking,
- c) the keeper of the vehicle,
- d) the owner of the vehicle,
- e) the infrastructure manager.

§ 3 The application for a technical certificate, ~~including appropriate declarations,~~ may be made to ~~any~~the competent authority ~~or body within its competence referred to in Article 5,~~ of ~~one of the~~any Contracting States.

~~§ 3a~~ ~~§ 3a—The application for an assessment and of the issuing of corresponding declarations may be made to any assessing entity to which the competent authority transferred competence to carry out assessments as a whole or partly in accordance with Article 5 § 2~~

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§ 4 If Article 6 § 4 applies to the vehicle, the applicant shall indicate the Contracting States (if applicable the lines) for which the technical certificates are required to permit free circulation; in this case the competent authorities and assessing ~~bodies~~ entities involved should cooperate in order to make the process easier for the applicant.

§ 5 All costs arising from the admission process shall be covered by the applicant, unless provided otherwise according to the laws and prescriptions in force in the State

Comment [BL30]: For consistency and clarity the issuing of certificates (in the admission domain) and the issuing of declarations (in the assessment domain) should be separated.

Comment [BL31]: To clarify the principle that applicants may make use of the services of assessing entities having their place of business in other CSs.

- where the ~~approval-admission to operation~~ is granted. ~~Carrying out~~ Granting technical admissions to operation by the competent authority for profit shall not be permitted.
- § 5a All decisions, assessments, tests etc. shall be carried out in a non-discriminatory way.
- § 6 The applicant shall elaborate and attach to his application a Technical File and a Maintenance File, containing the information required in the relevant UTPs. The assessing ~~body-entity~~ shall compile the technical file, check, correct and add appropriate information to these files in order that the files reflect the properties of the vehicle.
- § 7 Every assessment carried out shall be documented by the ~~assessor-assessing entity~~ in an Assessment Report which shall substantiate the assessments carried out hereby, stating which provisions the object has been assessed against and whether the object passed or failed this assessment.
- § 8 ~~An-The applicant-person who applies~~ for a Certificate of Operation by the ~~simplified~~ procedure of technical admission ~~{as set out in Article 4 § 1, b)}~~, shall attach to his application the Design Type Certificate, established in accordance with Article 11 § 2, and demonstrate in an appropriate manner that the vehicles for which he is applying for a Certificate of Operation correspond to that type of construction.
- For new vehicles such appropriate manner of demonstration consists of a UTP certificate of verification issued by an assessing entity in accordance with relevant UTP.
- § 9 A technical certificate shall be granted in principle for an unlimited period; it can be general or limited in scope.
- § 10 If relevant provisions in the prescriptions according to Article 7 on the basis of which a type of construction has been admitted have been changed, and if no relevant transitional provisions can be applied, the Contracting State in which the corresponding Design Type Certificate has been issued, and after consultation of the other States where the Certificate is valid according to Article 6, shall decide whether the Certificate may remain valid or need to be renewed for the first admission of new vehicles according to that type. The criteria which shall be checked in the case of a renewed type admission may only concern the changed provisions. The renewal of the type admission does not affect admissions to operation already granted to vehicles on the basis of previously admitted types.
- § 11 In the event of renewal or upgrading, the contracting entity or the manufacturer shall send the ~~Contracting-State~~competent authority concerned a file describing the project. The ~~competent authority~~Contracting-State shall examine this file and, taking account of the implementation strategy indicated in the applicable UTP, shall decide whether the extent of the work means that a new admission to operation within the meaning of these Uniform Rules is needed.

Such a new admission to operation shall be required whenever the overall safety level of the subsystem concerned may be adversely affected by the work envisaged. If

Comment [BL32]: "granting" is the word used in the corresponding definition. This also makes a more clear distinction with carrying out the assessments (by the assessing entity) which may be done for profit (e.g EU Notified Bodies).

Comment [BL33]: An explanatory remark may explain further the not-for-profit principle.

Comment [BL34]: The maintenance file is part of the technical file.

Comment [BL35]: the assessing entity compiles the technical file, it does not check, correct and add. The applicant is the submitting the technical file.

Comment [BL36]: A person who applies for a certificate is an applicant. Consequently the certificate is issued to the applicant, see Art.11§7.

Comment [BL37]: The UTP certificate is the correct document to confirm that a vehicle is built according to a type.

a new admission is needed, the competent authority~~Contracting State~~ shall decide to what extent the provisions in the related UTP need to be applied to the project.

The competent authority~~Contracting State~~ shall take its decision not later than four months after submission of the complete file by the applicant.

When a new admission is required and if the UTP are not fully applied the vehicle shall be subject to a new admission for which the conditions of Article 6 §4 apply, and the Contracting States shall notify to the Secretary General

Comment [BL38]: UTP not fully complied with? → Separate admission necessary in each CS !

- a) the reason why a UTP is not fully applied,
- b) the technical characteristics applicable in place of the UTP and
- c) the bodies responsible for providing the information required under a) and b).

The Secretary General shall publish the notified information on the website of the Organisation.

§ 12 § 11 applies mutatis mutandis to a Design Type Certificate and to any declaration concerning the construction or the elements of construction in question.

Article 10a

Rules for withdrawals or suspensions of technical certificates

§ 1 If a competent authority of a Contracting State other than the one which has granted the (first) admission to operation discovers non-compliance it shall, with all details, inform the (first) admitting authority; if the non-compliance relates to a Design Type Certificate, the authority which issued it shall also be informed.

§ 2 A Certificate of Operation may be withdrawn

- a) when the railway vehicle no longer satisfies
 - the prescriptions contained in the UTP and in applicable national provisions in force according to Article 12 of the APTU Uniform Rules, or
 - the special conditions of its admission under Article 7a or
 - the construction and equipment prescriptions contained in RID or
- b) if the keeper does not comply with the requirement of the competent authority to remedy the defects within the prescribed time or
- c) when stipulations and conditions resulting from a limited admission under Article 10 § 10 are not fulfilled or complied with.

§ 3 Only the authority which has granted the Design Type Certificate or the Certificate of Operation may withdraw it.

- § 4 The Certificate of Operation shall be suspended
- a) when technical checks, inspections, maintenance and servicing of the railway vehicle prescribed in its Maintenance File, in the UTP, in the special conditions of an admission pursuant to Article 7a or in the construction and equipment prescriptions contained in RID are not carried out (or if deadlines are not observed);
 - b) if in case of severe damage to a railway vehicle, the order of the competent authority to present the vehicle is not complied with;
 - c) in case of non-compliance with these Uniform Rules and prescriptions contained in the UTP;
 - d) if applicable national provisions in force according to Article 12 of the APTU Uniform Rules or their declared equivalent provisions according to Article 13 of the APTU Uniform Rules are not complied with. The validity of the Certificate shall be suspended for the Contracting State(s) concerned.
- § 5 The Certificate of Operation shall become void when the railway vehicle is withdrawn from service. This withdrawal from service shall be notified to the competent authority ~~which has granted the admission to operation~~ of the Contracting State where the vehicle is registered.
- § 6 §§ 1 to 4 shall apply mutatis mutandis to a Design Type Certificate.

Comment [BL39]: It seems essential that the vehicle's status is modified in the NVR.

Article 10b

Rules for assessments and procedures

- § 1 The Committee of Technical Experts is competent to adopt ~~further~~ mandatory provisions for the assessments and procedural rules for technical admission. Provisions for the assessments are set out in the relevant UTP GEN-D.
- § 2 In addition to, but not in contradiction with the provisions set by the Committee of Technical Experts according to § 1, Contracting States or regional organisations may adopt (or maintain) provisions for non-discriminatory detailed mandatory procedures for the assessments and requirements concerning declarations. These provisions shall be notified to the Secretary General, who shall inform the Committee of Technical Experts, and they shall be published by the Organisation.

Article 11

Technical Certificates ~~and Declarations~~

- § 1 The admission of a type of construction and the admission to operation shall be evidenced by separate documents called: "Design Type Certificate" and "Certificate of Operation".
- § 2 The Design Type Certificate shall:

Comment [BL40]: Declarations should be deleted because the article is about certificates. Declarations by the applicant are not mandatory in COTIF (as set out in more detail in UTP GEN-D).

- a) specify the designer and intended manufacturer of the type of construction of the railway vehicle;
- b) have the Technical File and the Maintenance File attached;
- c) if appropriate, specify the special operating limitations and conditions for the type of construction of a railway vehicle and for railway vehicles which correspond to this type of construction;
- d) have the Assessment Report(s) attached;
- e) if appropriate, specify all related declarations (of conformity and verification) issued;
- f) specify the issuing competent authority, date of issue and contain the signature of the authority;
- g) if appropriate, specify its period of validity;

g) have attached for vehicles subject to Article 6 §4. copies of the additional national admissions, if any.

Comment [BL41]: This specification is in line with the Uniform format of certificates A 93-01/2.2012

§ 3 The Certificate of Operation shall include

- a) all the information indicated in § 2, and
- b) the identification code(s) of the vehicle(s) covered by the certificate;
- c) information on the keeper of the railway vehicle(s) covered by the certificate on the day of its issue;
- d) if appropriate, its period of validity.

§ 4 The Certificate of Operation may cover a group of individual vehicles of the same type, in which case the information required according to § 3 shall be specified identifiably for each of the vehicles of the group and the Technical File shall contain a list with identifiable documentation concerning the tests made on each vehicle.

§ 5 The Technical File and the Maintenance File shall contain the information according to the provisions in the UTP.

§ 6 The certificates shall be printed in one of the working languages according to Article 1 § 6 of the Convention.

§ 7 The certificates ~~and declarations~~ shall be issued by the Competent Authority to the applicant.

Comment [BL42]: Declarations should be deleted here, as the applicant may also issue declarations in the scope of UTP GEN-D

§ 8 The Certificate of Operation is related to the object. Once the vehicle is in operation the holder of the Certificate of Operation (including the Technical File and the Maintenance File), if not the current keeper, shall without delay hand it over to the current keeper together with the Maintenance Record File and make available all

(additional) detailed instructions for maintenance and operations that are still in his possession.

- § 9 § 8 applies mutatis mutandis to vehicles and railway material admitted according to Article 19, whereby the documentation in question is the approval documentation and any other documentation containing any information similar to what is included in the requirements for the Technical File, Maintenance File and Maintenance Record File, whether in full or in part.

Article 12 **Uniform formats**

- § 1 The Organisation shall prescribe uniform formats of the certificates indicated in Article 11, ~~of the declarations decided according to Article 4 § 2~~ and of the Assessment Report according to Article 10 § 7.
- § 2 The formats shall be prepared and adopted by the Committee of Technical Experts and shall be published on the website of the Organisation.
- § 3 The Committee of Technical Experts may decide to allow certificates ~~and declarations~~ made according to another specified format than that prescribed in these Uniform Rules, but containing the information required according to Article 11, to be recognised as equivalent substitutes.

Article 13 **Registers**

- § 1 A vehicle register in the form of an electronic data bank containing information concerning the railway vehicles in respect of which a Certificate of Operation has been issued and the types of constructions in respect of which a Design Type Certificate has been issued shall be established by each Contracting State and kept up to date under the responsibility of the Organisation. The register shall also include railway vehicles admitted according to Article 19; it may contain railway vehicles admitted for national traffic only.
- § 2 ~~The data bank shall also contain a register with information concerning the competent authorities and bodies to whom competence is transferred according to Article 5 auditors [reserved]~~
- § 3 The Committee of Technical Experts may decide to include other data to be used in railway operations in ~~the~~ data bank, such as information concerning declarations, inspections and maintenance of the admitted vehicles (including next inspection due), information needed to establish if there is technical compatibility between vehicle and network, information on accidents and incidents and registers concerning coding of vehicles, locations, rail transport undertakings, keepers, infrastructure managers, workshops, manufacturers, etc.
- ~~§ 3a**b** The Organisation shall establish and keep up-to-date, or make accessible a register with entities in charge of maintenance (ECM) and ECM Certification bodies.etc.~~

Comment [BL43]: In fact this is the NVR which is under the responsibility of the CS.

~~§ 3b~~ The Organisation shall establish and keep up-to-date, or make accessible a register with Vehicle Keeper Markings cCodes.

§ 3c The Committee of Technical Experts is competent to decide on modifications, merging or withdrawal of the registers and databases mentioned in this article.

§ 4 The Committee of Technical Experts shall establish the functional and technical architecture of the registers specified in this article~~data bank~~, and may as well ~~as~~establish the necessary data, when and how the data shall be provided, what the access rights will be and other administrative and organisational provisions, including which database structure should be applied. In all cases, change of keeper, change of ECM, withdrawals from service, official immobilisations, suspensions and withdrawals of certificates, declarations or other evidence and modifications to a vehicle which derogate from the admitted type of construction shall be notified to the ~~Secretary General~~entity keeping the register without delay.

§ 5 When applying this Article, the Committee of Technical Experts shall consider registers set up by Contracting States and regional organisations in such a way so as to reduce undue burden on the involved parties such as regional organisations, Contracting States, competent authorities and industry. In order also to minimise the cost for the Organisation and obtain coherent register systems, all parties involved shall coordinate with the Organisation their plans and the development of registers which are within the scope of these Uniform Rules.

§ 6 The data registered in the data bank according to § 1 shall be considered as prima facie evidence of the technical admission of a railway vehicle.

§ 7 The Committee of Technical Experts may decide that the costs of setting up and running the data bank shall be covered, in whole or in part, by the users; supplying and amending data shall be free of charge, whereas consulting data may be subject to a fee.

Article 14 Inscriptions and signs

§ 1 Railway vehicles admitted to operation must bear

~~a sign, which establishes clearly that they have been admitted to operation in international traffic according to these Uniform Rules, and~~

~~the other~~ inscriptions and signs prescribed in the UTP, including a unique ~~identification code (the vehicle number)~~.

The competent authority which grants the (first) admission to operation is responsible for ensuring that the alphanumeric identification code is assigned to each vehicle. This code, which shall include the country code of the (first) admitting State, must be marked on each vehicle and be entered in the National Vehicle Register (NVR) of that State as required according to Article 13.

§ 2 The Committee of Technical Experts ~~shall~~ may lay down ~~the~~ a sign which establishes that the vehicle bearing it has been admitted to operation in international traffic according to these Uniform Rules. provided for in § 1 a)

§ 3 The Committee of Technical Experts may set out ~~and~~ the transitional periods during which the railway vehicles admitted to circulation in international traffic may bear inscriptions and signs derogating from those prescribed in §§ 1 and 2.

Article 15 **Maintenance of vehicles**

§ 1 Railway vehicles and other railway material must be in a good state of maintenance in such a way that they comply with the provisions as defined in Article 7 ~~specified in the UTP and satisfy them permanently, and that their~~ The condition of vehicles ~~would~~ must not in any way compromise operational safety and ~~would~~ must not harm the infrastructure, environment and public health by their circulation or their use in international traffic. To that end, railway vehicles and other railway material must be made available for and undergo the service, inspections and maintenance as prescribed in the Maintenance File attached to the Certificate of Operation and updated under the responsibility of the ECM, the UTP, the special conditions of an admission pursuant to Article 7a and in the provisions contained in RID.

Comment [BL44]: This permanent compliance is now covered by art.7

§ 2 Each railway vehicle, before it is admitted to operation or used on the network, shall have an entity in charge of maintenance (ECM) assigned to it and this entity shall be registered in the data bank referred to in Article 13. ~~A railway undertaking, an infrastructure manager or a keeper may be an ECM.~~ The ECM shall ensure 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. The ECM ~~shall carry out the maintenance itself or may~~ make use of contractors including contracted maintenance workshops.

The Committee of Technical Experts shall be competent to adopt and amend rules for certification and auditing of ECM and maintenance workshops. The rules are set out in Annex A to these Uniform Rules.

Comment [BL45]: To keep the definition of CTE competence.

The ECM for a freight wagon ~~must hold a valid certificate issued~~ shall be certified by an external ~~auditor~~ ECM Certification Body accredited/recognised in one of the Contracting States in accordance with Annex A to these Uniform Rules.

~~The Committee of Technical Experts shall adopt further detailed rules for certification and auditing of ECM, for accredited/recognised auditors, their accreditation/ recognition, the audits and audit certificates. The rules shall indicate whether they are equivalent to the criteria related to the ECM certification system adopted in the European Community or in the States which apply Community legislation as a result of international agreements with the European Community.~~

~~These rules, which shall also include rules for the withdrawal and suspension of certificates and accreditations, shall be defined in an Annex to these Uniform Rules and shall form an integral part thereof.~~

§ 3 The keeper shall make available to the ECM, as far as necessary for maintenance, all the elements relating to the instructions concerning servicing, constant or routine monitoring, adjustment and maintenance.

Comment [BL47]: It was suggested by ERA to put a similar text in Art.11, but perhaps it fits better in this art.15, because Art.11 sets requirements about admission and this requirement applies also after the process of admission.

~~An operating railway undertaking is responsible for the safe operation of its trains and shall ensure that vehicles carried are properly maintained. Therefore, the ECM must ensure, either directly or via the keeper, that reliable information about maintenance processes and restrictions affecting operations, data necessary and sufficient to support safe operations are available for the operating railway undertaking.~~

Comment [BL48]: This is now covered by new article 15a

Comment [BL49]: The type of information to be exchanged is set out in the ECM regulation Annex III point 7.

~~and The operating railway undertaking must in due time, either directly or via the keeper, provide the ECM with information and data concerning the operation and performance of the vehicles (such as mileage, tkm) and other railway material for which the ECM is in charge. In both cases the information and data in question shall be specified in the Annex indicated in § 2.~~

Comment [BL50]: Now covered by Annex A (ECM regulations).

§ 4 The ECM of an admitted vehicle shall keep and update ~~the~~ Maintenance Record File for that vehicle and inform the keeper thereof. The file shall be available for inspection by the competent national authority.

~~§ 5 The Committee of Technical Experts may adopt guidelines or regulations on the certification and auditing of maintenance workshops and the mutual recognition of the certificates and audits. Regulations according to this paragraph shall be defined in an Annex to these Uniform Rules and shall form an integral part thereof and be published on the website of the Organisation.~~

Comment [BL51]: Now covered by Annex A (ECM regulations).

Article 15a

Train composition and operation

§ 1 The rail transport undertaking shall ensure safe operation of trains. To that end it shall ensure that these trains comply with the essential requirements, and shall in particular:

Comment [BL52]: This new article 15a defines the tasks and responsibilities of the railway undertaking with respect to the use of vehicles and operation of trains.

The article corresponds to the conclusions of the ad-hoc safety subgroup, which reported its results to the WG TECH and of which its conclusions were validated in the CTE 6.

The principles are in line with the OPE TSI

- a) ensure correct and safe train composition and preparation, including pre-departure checks,
- b) take into account information necessary for the safe operation of each vehicle, including possible operating restrictions,
- c) only use vehicles within their limit and conditions of use,
- d) control the risks related to the operation of trains,
- e) be required to comply with the prescriptions relating to the operation in international traffic as specified in the relevant UTPs,

f) ensure that all vehicles carried have an ECM assigned to them.

§ 2 The rules as set out in § 1 shall apply mutatis mutandis to entities other than a rail transport undertaking that operate trains under their responsibility.

§ 3 The keeper shall make available, as far as necessary for operation, to any rail transport undertaking operating the vehicle, all the elements relating to the conditions and limits of use concerning servicing and constant or routine monitoring.

Comment [BL53]: When such equipment is not in transport mode, but in working mode on non-operational tracks, these rules do not apply. In such situation these vehicles are considered maintenance or inspection machines instead of trains and are not in the scope of these rules.

Comment [BL54]: Perhaps this entire paragraph may be deleted? It may be better to say in the definition that also a IM or other entity may act as a RU and by doing so would be considered as such.

Article 16

Accidents, incidents and severe damage

§ 1 In case of accident, incident or severe damage to railway vehicles, all parties involved (the infrastructure managers, the keepers, the ECM, the railway undertakings concerned and possible others), shall be required

- a) to take, without delay, all necessary measures to ensure the safety of railway traffic, respect for the environment and public health and
- b) to establish the causes of the accident, the incident or the severe damage.

§ 1a The measures according to § 1 must be coordinated. Such coordination is the obligation of the infrastructure manager unless otherwise prescribed by provisions in force in the State in question. In addition to the duty of investigation placed upon the parties involved, the Contracting State may require an independent investigation to be carried out.

§ 2 A vehicle shall be considered severely damaged when it cannot be repaired by a simple operation which would allow it to be joined in a train and to circulate on its own wheels without danger for operations. If the repair can be carried out in less than 72 hours or the cost is less than 0.18 million SDR in total, the damage shall not be considered as severe.

§ 3 The accidents, incidents and severe damage shall be notified, without delay, to the authority or body which admitted the vehicle to circulation. That authority or body may require the damaged vehicle to be presented, possibly already repaired, for examination of the validity of the admission to operation which has been granted. If appropriate, the procedure concerning the grant of admission to operation must be repeated.

§ 4 The Contracting States shall keep records, publish investigation reports including their findings and recommendations, inform the ~~approval certificate issuing~~ competent authority and the Organisation of the causes of accidents, incidents and severe damage in international traffic that occurred on their territory. The Committee of Technical Experts may examine the causes of serious accidents and incidents or severe damage in international traffic with a view possibly to developing

the construction and operation prescriptions for railway vehicles and other railway material contained in the UTP and may if appropriate decide to instruct the Contracting States within a short time limit to suspend relevant Certificates to Operation, Design Type Certificates or declarations issued.

- § 5 The Committee of Technical Experts may prepare and adopt further mandatory rules concerning the investigation of serious accidents, incidents and severe damage, requirements concerning independent State investigation bodies and the form and content of reports. It may also change the values/numbers in § 2 and in Article 2 ff).

Article 17 Immobilisation and rejection of vehicles

- § 1 A competent authority, another a rail transport undertaking or an infrastructure manager ~~may shall~~ not prevent railway vehicles from running on compatible railway infrastructures if these Uniform Rules, the prescriptions contained in the UTP, the special conditions, if any, for the admission set out by the admitting authority as well as the construction and operation prescriptions contained in RID, are complied with.

This article is without prejudice to the responsibility of the rail transport undertaking as defined in Article 15a.

- § 2 The right of a competent authority to inspect and immobilise a vehicle is not affected if non-compliance with § 1 is suspected, but the examination to establish certainty should be carried out as quickly as possible and in any case within 24 hours.
- § 3 However, if a Contracting State does not suspend or withdraw a certificate within the limit indicated according to Article 5 § 7 or Article 16 § 4, other Contracting States are entitled to reject or immobilise the vehicle(s) in question.

Article 18 Non-compliance with the prescriptions

- § 1 Subject to § 2 and Article 10 a § 4 c), the legal consequences resulting from failure to comply with these Uniform Rules and the UTP, shall be regulated by the provisions in force in the Contracting State of which the competent authority has granted the first admission to operation, including the rules relating to conflict of laws.
- § 2 The consequences in civil and penal law resulting from failure to comply with these Uniform Rules and the UTP shall be regulated, so far as concerns the infrastructure, by the provisions in force in the Contracting State in which the infrastructure manager has his place of business, including the rules relating to conflict of laws.

Article 19 Transitional provisions

- § 1 ~~[reserved] Article 3 § 1 applies to upgraded, renewed and existing vehicles. For vehicles which have been approved for international traffic under RIV, RIC or other pertinent international agreements and which are marked accordingly, transitional provisions are prescribed in this Article.~~

Comment [BL55]: Explanatory remark: ATMF Article 17 § 1 does not mean that every rail transport undertaking must be capable of using every type of vehicle. An admitted vehicle incompatible with the operational environment or fleet of a rail transport undertaking is not *prevented from running*, but as it does simply not fulfil the technical or operational prerequisites for this rail transport undertaking to operate it, this rail transport undertaking is *not in a position to operate* it. This means that a rail transport undertaking may decide under the conditions set out above that it is not able to operate a particular type of wagon that has been legally authorised/admitted for service.

Comment [BL56]: Not needed and confusing, as it seems to suggest that Article 3§1 does not apply to new vehicles.

- § 2 ~~At the time of entry into force of t~~These Uniform Rules ~~do not affect admissions to international traffic issued before 1.1.2011 for,~~ existing vehicles ~~which are~~ marked with RIV or RIC ~~as proof of current in~~ compliance with the technical provisions of the RIV 2000 agreement (revised edition of 1 January 2004) or the RIC agreements respectively. ~~shall be deemed to be admitted to operation on the networks of the Contracting States in accordance with their compatibility with the railway infrastructures (in respect of the markings on the wagon) for which it is admitted by one of the Contracting States.~~
- § 2a ~~These Uniform Rules do not affect admissions to operation issued before 1.1.2011 foref.~~ Existing vehicles not marked RIV or RIC but admitted and marked according to bilateral or multilateral agreements between Contracting States notified to the Organisation. ~~shall also be deemed to be admitted to operation on the networks covered by the agreement.~~
- § 3 ~~Without prejudice to § 5. The transitional-original~~ admission according to §§ 2 and 2a is valid until the vehicle requires a new admission according to Article 10 § 11.
- § 4 The inscriptions ~~and signs RIV, RIC, or another marking on the vehicle accepted by the Committee of Technical Experts as referred to in Article 14,~~ together with the data stored in the database indicated in Article 13 ~~§ 1,~~ shall be considered as sufficient proof of the ~~approval~~admission. Unauthorised changing of this marking shall be considered as fraud and prosecuted according to national law.
- § 5 Regardless of this transitional provision, the vehicle and its documentation shall comply with the provisions in force of the UTP concerning marking and maintenance; compliance with the provisions of RID in force shall also be ensured, where applicable. The Committee of Technical Experts may also decide that ~~safety-based~~ provisions introduced in the UTP shall be complied with within a certain deadline regardless of any transitional provisions.
- § 6 Existing vehicles which are not covered by the scope of §§ 2 and 2a can be admitted to operation upon the request of an applicant to a competent authority. The latter may request additional technical information from the applicant, risk analysis and/or vehicle tests before granting a complementary admission to operation. However the competent authorities shall take full account of the equivalence table referred to in Article 13 of the APTU Uniform Rules.
- § 7 The Committee of Technical Experts may adopt ~~other~~ additional transitional provisions.

Comment [BL57]: 'do not affect' is more neutral than 'shall be deemed to be admitted'.

Comment [BL58]: 1.1.2011 marked the entry into force of the ATMF in its version that is compatible with EU law.

Comment [BL59]: It is more neutral to say that these rules do not affect the original agreement.

We do not know the contents of the possible agreements covered by this clause and therefore should not give additional status to them.

Comment [BL60]: This opens the possibility for requiring compliance with some UTP provisions also for existing wagons.

Comment [BL61]: Anticipating on a possible mandatory noise related retrofit of existing wagons, it may be better to delete 'safety related'.

Comment [BL62]: The word 'other' could signify that the CTE may change the content of Art.19. 'additional' seems a more appropriate word here.

Article 20 Disputes

Disputes relating to the technical admission of railway vehicles and other railway material intended to be used in international traffic, may be dealt with by the Committee of Technical Experts if there is no resolution by direct negotiation between the parties involved. Such disputes may also be submitted, in accordance with the procedure specified in Title V of the Convention, to the Arbitration Tribunal.