



Organisation intergouvernementale pour les transports internationaux ferroviaires

Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr

Intergovernmental Organisation for International Carriage by Rail

## **WG TECH**

### **29<sup>th</sup> Session**

## **Provisional Minutes**

[Received comments from: CH, EC and the EU Agency for Railways](#)

Lille, 7-8.9.2016

*TECH-16036-WGT29-Draft Report, 24. October 2016*

## **DISCUSSIONS**

### **Welcome by the OTIF Secretariat**

Mr Bas Leermakers (head of OTIF's technical department) welcomed the participants ([List of participants Annex I](#)), particularly those attending WG TECH for the first time: Mr Helnwein from Austria, Ms Okolic from Bosnia and Herzegovina, Mr Wolter from Denmark, Ms Le Gal from France, Ms Militaru from Romania, Mr Mette, Mr Trinca and Mr Lodzinski from the European Union Agency for Railways. He then opened the 29<sup>th</sup> session of WG TECH in Lille.

On the second day, Ms Dinimant, Mr Martos, Mr Bellino, Mr Fajardo and Mr Niedzwiedzki from the European Union Agency for Railways joined the meeting.

### **1. APPROVAL OF THE AGENDA**

The **Secretariat** explained that the provisional agenda had been sent to participants with the invitation on 6 July 2016 (circular [TECH-16029](#)). The European Union Agency for Railways<sup>1</sup>, formerly known as the European Railway Agency (hereinafter: the EU Agency) asked that the agenda be amended by adding a new item 7a, "Monitoring of NSA". Since there were no objections, the agenda was adopted accordingly.

**Conclusion:** WG TECH approved the agenda for the 29<sup>th</sup> session ([Annex II](#)).

### **2. GENERAL INFORMATION (FROM THE OTIF SECRETARIAT)**

#### **• General developments**

In connection with developments that took place after the 28<sup>th</sup> WG TECH, the Secretariat informed the meeting about the results of CTE 9. CTE 9 had adopted amendments to UTP WAG and UTP GEN-G and had approved the transposition of the TAF TSI into a UTP, and decided that the OTIF Secretariat should continue to work on the development of provisions for interoperability beyond the EU.

In addition, the Secretariat gave a progress report with regard to the joint OTIF/COM expert RID/ATMF working group. The working group had so far met twice. The second meeting was held in Bern on 9 and 10 June 2016. The working group's main objective is to align the vehicle requirements in RID with the general vehicle requirements (TSI/UTP) in terms of specifications and conformity assessment.

In connection with the current geographical scope of COTIF and its Appendices, the meeting was informed that the Czech Republic had lifted its reservations against the CUI/APTU/ATMF (with effect from 29 July 2016) and that Syria's membership has been suspended<sup>2</sup>. It was also noted that once international traffic had been re-established, the suspension could be lifted. Furthermore, on 12 July, a delegation from China's National Railway Administration (NRA) visited the OTIF Secretariat<sup>3</sup>. The NRA and the OTIF Secretariat had signed a Memorandum of Understanding (MoU), which sets out the initial elements for their cooperation.

#### **• UTP: process from CTE decision to entry into force**

Document: [TECH\\_16023\\_WGT29\\_2\\_e\\_Modifying UTP](#)

For information: Publishing adopted or amended UTP

The **Secretariat** described to the meeting the principles for the publication of UTPs or modifications to them following adoption by the CTE. It reminded the meeting about the legal process for modifying

<sup>1</sup> European Union Agency for Railways (Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004)

<sup>2</sup> Decision of the Administrative Committee at its 125<sup>th</sup> session, Berne (29-30.6.2016), in accordance with Article 40 of COTIF 1999

<sup>3</sup> See also OTIF news dated 13 July 2016 (link: [http://www.otif.org/fileadmin/user\\_upload/otif\\_verlinkte\\_files/08\\_Presse/Com\\_Presse/CP\\_2016/News\\_12\\_7.2016\\_China\\_OTIF\\_EN.pdf](http://www.otif.org/fileadmin/user_upload/otif_verlinkte_files/08_Presse/Com_Presse/CP_2016/News_12_7.2016_China_OTIF_EN.pdf))

UTPs, i.e. for the adoption of a new UTP, for the adoption of a UTP to replace an existing UTP and for the amendment of an existing UTP.

In response to Denmark's question whether it would be possible in OTIF documents to highlight the differences between COTIF and EU law, the **Secretariat** reminded the meeting that each UTP has a two-column format, where the left-hand column shows the UTP text, while the right-hand column shows the TSI text. In addition, differences could also be seen in the equivalence table of the EU/OTIF regulations, which the OTIF Secretariat and the EU Agency regularly update and which would be discussed under agenda item 11.

### 3. ELECTION OF CHAIR

The **Secretariat** nominated Switzerland (Mr Roland Bacher) to chair the session. No other nominations were proposed. Mr Roland Bacher accepted the nomination and WG TECH unanimously elected CH, in the shape of Mr Roland Bacher, to chair this session.

The Chairman thanked participants for the confidence it had placed in him.

### 4. APPROVAL OF THE MINUTES OF THE 28<sup>TH</sup> SESSION OF WG TECH

Document: [WG-TECH 28 PVM \(version with comments\)](#) Provisional Minutes of the 28<sup>th</sup> session (version with comments received by 6 August)

On 3 March 2016, the OTIF **Secretariat** had sent the provisional minutes to delegates who had attended the 28<sup>th</sup> session of WG TECH (16-17 February 2016). It uploaded for the attention of WG TECH 29 a version of the minutes with the comments received by 6 August. Comments were received from the EC and the EU Agency. The comments submitted reflected more clearly what was said at the meeting, corrected references and provided a post meeting note with regard to the EU Agency's proposal for a harmonised accreditation scheme. The minutes, including the amendments, were approved.

**Conclusion:** The minutes of the 28<sup>th</sup> session of WG TECH were approved with the correction requested by the EC and the EU Agency.

### 5. INTEROPERABILITY BEYOND THE EU

Document: [TECH 16030 WGT29 5 e Interop beyond EU](#) Draft Document

The **Secretariat** informed the meeting that this subject had been discussed at CTE 9, which had agreed that this subject should be developed further. The aim was to develop the provisions of COTIF so that they would support the cross-border operation of complete trains, in addition to the current provisions which allow the exchange of vehicles across borders. Based on CTE 9's endorsement, the OTIF Secretariat had prepared draft document TECH\_16030\_WGT29\_5\_e\_Interop beyond EU to be discussed at WG TECH 29. The document makes the following assumptions:

1. The new provisions should be developed as an add-on to the existing provisions of APTU and ATMF. This means that only States that apply APTU and ATMF could apply the future provisions;
2. The technical safety of subsystems, such as vehicles, is covered by the scope of APTU and ATMF;
3. COTIF is not an instrument for market regulation and should be neutral with respect to how States grant access to their rail networks (e.g. by competition or cooperation);
4. States choosing to apply the future provisions actually want to promote and facilitate the international operation of trains on their territory, including access to all facilities and services required for such operation.

In this document, the OTIF Secretariat analysed the Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road, as it was an example of an agreement that actually made interoperability beyond the EU possible. On the basis of the content of this agreement, the Secretariat proposed a list of elements and subjects: those that should be covered under COTIF, those that should not be covered under COTIF and subjects for which it is not yet clear what should be done. Furthermore, in the annex to the document, the Secretariat also provided a draft inventory of the subjects and elements to be covered in the new appendix to COTIF. In its view, the document should provide a starting point for the development of provisions for interoperability under COTIF.

The **Chairman** thanked the Secretariat for the introduction and noted that there was a clear mandate from CTE 9 to define requirements for the cross-border operation of complete trains. He proposed that WG TECH should first discuss whether the assumptions were correct and complete, then whether the objectives were correct and complete, and lastly how to proceed.

### **The assumptions**

**RS** questioned whether interoperability beyond the EU was possible if access to the network were not granted. In his view, the free movement of trains meant that all the requirements should be applied, including permission to operate trains on (an) other networks. In his view, any new appendix should be harmonised entirely with the EU requirements, and States would decide themselves whether or not to apply it.

The **Secretariat** explained that the free movement of trains was not the aim. The aim was to establish rules that would support the cross-border operation of trains between States that wanted this kind of international traffic. The aim was not to regulate market access and rules should be neutral with respect to how States grant access to their rail networks.

The **EU Agency** (Peter Mihm) reminded the meeting that besides technical requirements, WG TECH should take into account other requirements, e.g. licenses and certificates.

**DE** commented on the third assumption concerning competition or cooperation by saying that both are also recognised within the EU as instruments for granting access to the rail infrastructure. In his view, the operation of complete trains required a mixture of market and safety requirements. He expressed the following concerns:

1. Within the EU, access to the infrastructure and railway networks and path allocation were regulated by Directive 2012/34/EU on establishing a single European railway area. This topic was not in the scope of CTE and WG TECH.
2. Article 15a of ATMF defined technical requirements for train composition and operation.
3. Within the EU, the OPE TSI regulates train preparation. OTIF should decide which requirements would be part of international law and which should be dealt with in national legislation. Would this mean that the OPE TSI should also be transposed into UTP OPE?

The **Chairman** reminded the meeting that the cross-border operation of complete trains was the objective. WG TECH should therefore focus on the technical and operational rules to be included in OTIF regulations. The issues of market and network access could be discussed, but only once agreement on technical requirements had been reached.

The **Secretariat** was of the view that combining requirements for interoperability with the requirements for “market opening” should be avoided. Some OTIF MS might prefer to apply the principle of reciprocity (cooperation) for their railway market, rather than the competition (market) model, but both market models could use the same operational and safety provisions. The provisions should be suitable not only for traffic crossing the EU border, but also for traffic between States without an EU border. In reply to the second concern raised by DE, it reminded the meeting that in response to the large degree of technical freedom provided by the UTP WAG, WG TECH’s safety subgroup had discussed safety provisions relating to train composition and Article 15a was the result of those discussions. On the other hand, the subgroup had not discussed how trains should be operated safely. It had been of the view that it

might not be acceptable to some MS that already apply ATMF to further extend the scope of ATMF beyond the admission of vehicles

The **representative of the EU** (Patrizio Grillo) explained that the concept of interoperability differed in OTIF and the EU. For the EU, this concept was defined by the Interoperability Directive. He reminded the meeting that not all EU legislation was transposed into COTIF, e.g. the Safety Management System. In addition to what RS proposed, he was of the view that it might be a good idea to provide an appendix which would cover access in a way similar to the EU and to leave it to the States to decide whether to apply it.

**CER** was of the view that any additional administrative burden should be avoided.

The **Secretariat** reminded the meeting that if a state wished to have trains from another state on its network, these two States would first have to agree on how to operate them and define relevant requirements. If several States were involved, it would be better to have a single multilateral agreement and hence avoid several potentially incompatible bilateral agreements. COTIF was a tool for such agreements. The Secretariat was of the view that requirements for technical and operational interoperability and market requirements should be kept separate, possibly in different appendices.

After reminding the meeting about the historical development of interoperability within EU law and COTIF, **DE** said that the non-EU OTIF MS' interest in a new appendix should be investigated further.

The **Chairman** proposed that WG TECH's further work should be carried out in stages, i.e. first discuss the technical, operational and safety requirements, and then discuss how to integrate access conditions (market opening, discrimination, etc.).

**RS** supported the Chairman's proposal.

The **representative of the EU** (Patrizio Grillo) expressed his concern that the Chairman's proposal was more likely to be within the competence of the General Assembly rather than the CTE. He was of the opinion that work on access conditions should be carried out in parallel with work on technical, operational and safety requirements. He proposed that after receiving a report from WG TECH, the CTE should inform the Secretary General of the latest developments. Following the CTE's report, the Secretary General would inform the General Assembly, which would then decide on the next steps.

**DE** wondered whether it was necessary to carry out an analysis of the legal instruments that already existed that might help achieve the objectives within the framework of COTIF. Appendices CUV and CUI might be of use in this task. The latter was already linked to network access. The analysis could also give some indication of whether additional licensing would be required.

**DK** supported DE's suggestion of carrying out an analysis. In addition, it highlighted that this analysis should also include any other opportunities or practical requirements for the states. He also supported working on harmonisation of the technical, operational and safety requirements.

The **Chairman** summarised the discussion so far and noted that the assumptions presented by the OTIF Secretariat were correct and complete. He also noted that COTIF does not regulate market access; this is instead regulated by the Member States of OTIF in line with their own interests. He also noted that WG TECH would first discuss the development of technical, operational and safety requirements and, as a second step, market access issues could be discussed.

### The objectives

Based on the assumptions, the Secretariat defined the following objectives for the future COTIF provisions:

1. To harmonise, as far as feasible and required, provisions related to the safe operation of trains in international traffic;
2. To define the roles and responsibilities of railway undertakings and the infrastructure manager and how they should cooperate (even when both belong to one integrated entity);
3. To make transparent the requirements and processes applicable to the licensing and safety certification of railway undertakings in each State;

4. To make transparent the processes and responsibilities applicable to the allocation of train paths in each State;
5. To make accessible, to all parties whose activities rely on them, registers relevant to interoperability;
6. All provisions should be compatible with EU provisions, so that they can contribute to making international rail traffic more efficient, both outside the EU and across the EU's outer borders.

**RS** noted that the first and second objectives fell under the competences of the States.

With regard to the clarification requested by CH as to which States a new appendix was intended for, the **Secretariat** explained that the objective was to create rules which are useful for all OTIF MS, bearing in mind that COTIF's geographical scope was still expanding. It also explained that the rules should be compatible with EU provisions, but that they should also be of use in international traffic between the non-EU OTIF MS, e.g. Turkey and Iran. The basic idea was to create transparent rules and avoid possible technical barriers. It was emphasised that the creation of separate systems within COTIF should be avoided.

The **representative of the EUC** (Patrizio Grillo) reminded the meeting that the overall goal should be to facilitate railway traffic and ~~make it compatible with~~ improve the competitive position of railways against other modes of transport. The goals should therefore be more ambitious than merely to require transparency. He welcomed the idea of transparency, but in his view, the same rules should be valid for an entire railway path, which would require not only transparency, but also legal harmonisation of access provisions. He thought that a solid basis for ~~this~~ purpose of transparency might be a network statement, which was one of the IM's tools for the allocation of train paths to RUs.

The **EU Agency** (Peter Mihm) reminded the meeting that the competitiveness of rail transport was also influenced by the customs authorities and their procedures.

The **Chairman** summarised the discussion and noted that WG TECH would be careful with regard to the provisions on access and not yet take a firm position on whether transparency or full harmonisation should be the goal.

### The way forward

Based on the discussion, the Chairman suggested that the development work should be divided between safety and operational aspects on one hand and access conditions on the other.

The **Chairman** asked whether WG TECH would agree on the annex to the document and the inventory of the subjects and elements to be covered for the cross-border interoperability of trains. As there were no further comments or objections, the Chairman noted that WG TECH's further work would be based on the annex.

The **Chairman** summarised the discussion and **concluded this item as follows**:

1. WG TECH's further work would focus on the development of technical, operational and safety requirements. The discussion on where to include them, i.e. in COTIF, would take place subsequently.
2. WG TECH noted that further work on covering the cross-border interoperability of complete trains would be based on the annex to document TECH\_16030\_WGT29\_5\_e\_Interop beyond EU.
3. WG TECH's further work on access requirements (market opening, competition, reciprocity, etc.) would be separated from the requirements set out in point 1. They should be worked on once the requirements set out in point 1 had been established, or in a parallel exercise, but not under CTE scope.
4. WG TECH noted that the developments concerning the safety and operation of trains would require amendments to APTU and ATMF which fell under the competence of the Revision Committee and General Assembly.
5. WG TECH also noted that in order to cover interoperability fully, including network access conditions, a new Appendix to COTIF might be needed.

**Commented [ND1]:** The EC comment

6. WG TECH should report its findings to CTE 10.

## 6. TRANSPOSING THE TAF TSI INTO A UTP

Document: [TECH-16032-WGT29-6-e-draft UTP TAF](#) Draft UTP TAF

In connection with CTE 9's decision to transpose the telematic applications for freight (TAF) TSI into a UTP, the **Secretariat** presented the working document UTP TAF, based on the EU TAF TSI<sup>4</sup>, to which it should be equivalent. The Secretariat explained that the implementation of TAF should be voluntary in non-EU OTIF MS, in the sense that there would be no deadline for completing the implementation of it. However, application should be mandatory, meaning that if there are IT investments and developments in the scope of the UTP TAF, these are carried out in conformity with the UTP TAF so as to prevent the proliferation of incompatible applications. Lastly, it also informed the meeting that the appendices to UTP TAF would refer to the TAF TSI technical appendices, which are available as "open source" documents on the ERA website.

The **EU Agency** informed the meeting that it had some comments. Some of the comments were presented to the meeting and subsequently discussed.

The **Secretariat** welcomed these comments.

The **Chairman** noted that WG TECH had discussed some of the EU Agency's comments and that the EU Agency would forward all its comments to the OTIF Secretariat. It was also noted that the document was still open for comments and the OTIF MS were invited to send any comments they might have. It was also noted that UTP TAF was expected to be ready for adoption at CTE 10.

## 7. INFORMATION ON DEVELOPMENTS IN EU REGULATIONS WHICH MAY AFFECT EQUIVALENCE WITH COTIF AND DISCUSSION ON NEXT STEPS (PRESENTATIONS BY THE EUROPEAN UNION AGENCY FOR RAILWAYS)

### • Taskforce on TSI NOI<sup>5</sup> - application to existing fleet

The **EU Agency** (Kamil Pravidk) informed the meeting that it had set up a Task Force (TF) on the applicability of NOI TSI to existing wagons, following the EC's request to revise NOI TSI with the aim of extending its application to existing wagons. In practice, this would mean that old wagons which are equipped with cast iron brake blocks would have to be equipped with composite brake blocks. He presented the TF's time frame and the scope of the work, which comprises the following main aspects:

- Only pass-by noise will be considered.
- If an existing wagon equipped with cast iron brake blocks is retrofitted with composite brake blocks, the pass-by noise level is deemed compliant with the NOI TSI, without actually measuring the pass-by noise.
- The targeted wagons are all freight wagons authorised to be operated on the EU's railways, [reportedly](#) 90% of which are authorised for international traffic, although not all of them operate internationally.
- Shorter deadline for international wagons (until end of 2021), longer deadline for domestic wagons (2025).
- Exceptions identified/proposed: wagons coming from the non-EU OTIF MS and running in international traffic in the scope of COTIF.
- Roles and responsibilities of the actors.

<sup>4</sup> Commission Regulation (EU) No 1305/2014 of 11 December 2014 on the technical specification for interoperability relating to the telematics application for freight subsystem of the rail system in the European Union, and repealing Regulation (EC) No 62/2006 (Official Journal of the EU: OJ L 356, 12.12.2014, p. 438–488)

<sup>5</sup> Technical specification for interoperability relating to the subsystem 'rolling stock — noise'

- Technical solutions considered: composite brake blocks (CBB), disc brakes, bogies specifically designed for noise reduction and others.
- The baseline scenario is defined with (economic) impact quantification.

The **Chairman** noted that noise abatement was a contentious issue. He also noted the EU Agency's question as to whether the number of wagons in international traffic between the non-EU OTIF MS and EU could be indicated and what experience there had been with regard to the retrofitting of cast iron brake blocks with composite brake blocks in the non-EU OTIF MS. He then opened the discussion.

In reply to **DK**'s question as to why no other noise than pass-by noise had been taken into consideration, e.g. "brake squeal" noise, and whether additional assessment were required if -CBB were used, the **EU Agency** explained that pass-by noise had been selected as it has the greatest influence on the noise of freight train operations. The Agency also confirmed that no additional assessments of wagons with CBB were necessary. The Secretariat added that although annoying, "brake squeal" noise was not covered by the UTP/TSI NOI as the phenomenon was not understood well enough to specify test conditions.

With regard to **IT**'s request that the status of the TF and its further work be explained in more detail, the **EU Agency** explained that if the relevant working party were not set up by October 2016, which would depend on a mandate from the EC, the TF's work would continue until the end of 2016. It was planned that the TF's final report would include a proposal for the revision of the NOI TSI. He also invited IT to join the TF. [Anyway, a working party would need to be set up to draft a formal recommendation for the European Commission on the revision of NOI TSI once the TF finished its work.](#)

Commented [ND2]: The Agency Comment

The **Secretariat** informed the participants that the OTIF Secretariat had participated in the TF's first meeting. It also repeated the information that had been provided to the TF, i.e. that in its view, retroactive requirements imposed in the EU, without similar provisions in COTIF, would not affect wagons coming from non-EU States running into the EU. Article 19 § 2 ATMF gave "grandfather rights" to vehicles in operation prior to 1.1.2011 under the RIV regime, meaning that they were, in principle, not affected by new (noise) provisions. Regional measures, in addition to COTIF, could be agreed and applied between the States concerned (e.g. EU+CH), but these would not apply to their relations with other OTIF Contracting States.

The OTIF Secretariat assumed that noise abatement had a different priority in different States, both in and outside the EU. The Secretariat also suggested that prior to the TF's final report the non-EU OTIF MS should be consulted via the OTIF Secretariat.

The **representative of the EUC** reminded the meeting about the new legal framework within the EU and confirmed that the delegated act on this subject was not scheduled until April 2017. He also noted that possible preliminary solutions could be ready in September 2017 at the earliest.

**CH** supported the involvement of all the OTIF MS and the opportunity for non-EU OTIF MS to be consulted on this topic. It also said that more non-EU OTIF MS should be present at WG TECH meetings.

**DE** was of the view that new noise requirements should be valid for wagons coming from any (EU or non-EU) OTIF MS.

The **representative of the EUC** shared DE's concerns. However, he was of the opinion that vehicles already authorised should continue to be authorised, even if the rules for new vehicles changed. He informed the meeting that this principle of 'grandfather rights' was enshrined not only in ATMF; the Interoperability Directive contained the same principle.

**CH** informed the meeting that although implementation of the noise emission limits for freight wagons in Switzerland was planned for 2020 if necessary, this period could be extended [to 2022](#) and aligned with the EU's plan.

Commented [ND3]: CH comment

The **Secretariat** was of the view that instead of national or regional (EU) measures, a harmonised multilateral solution should be found. The concept of COTIF was to harmonise requirements and to let them prevail over national or regional ones. Applying ATMF on one hand and prohibiting the use of admitted vehicles on the other was not compatible. The development of national or regional legislation over and above COTIF provisions should be avoided.



The **Chairman** summarised the discussion so far and noted that there were different interests within the OTIF MS; for some, noise abatement was a priority, while for others it was not. He also agreed that a solution accepted by all OTIF MS would be preferable.

**UIP** reported on keepers' concerns as to how possible new requirements would be applied in practice. It was of the view that withdrawal of the authorisations based on "grandfather rights" should not be allowed. He reminded the meeting that a similar problem had arisen when the RID Committee of Experts discussed the amendments with regard to dangerous goods tanks. He shared the view that equivalence between COTIF and the EU legislation should be maintained.

**RS** supported UIP and expressed its concern about requirements that might be applied retroactively. Even if the UTP were to be amended and imposed the retrofitting of brake blocks, he wondered how the lower-level UTP could overrule the higher level "grandfather rights" provisions of ATMF.

**DE** was of the view that Art. 3, 6, 17 and 19 of the ATMF, accompanied by appropriate explanatory reports, should be further analysed by the OTIF Secretariat, bearing in mind the new noise requirements and their application to existing vehicles. He agreed that "grandfather rights" should not be affected, but it might be possible that new requirements may come into force during a vehicle's operating life. DE preferred the option of limiting operation of vehicles which did not meet the new requirements, rather than the withdrawal of certificates.

The **EU Agency** confirmed that Article 54 of the Interoperability Directive concerning "grandfather rights" applied to all vehicles that had been already authorised.

On behalf of WG TECH, the **Chairman** thanked Mr Právdík for his presentation on the TSI NOI Task Force – application to existing fleet, and took note of this development. He also asked the OTIF Secretariat, the EC and the EU Agency for Railways to analyse the ATMF, bearing in mind the possible new noise requirements and their application to existing vehicles, and to present their findings at the next WG TECH. The Chairman also invited the non-EU OTIF MS to inform the OTIF Secretariat (who would then inform the EU Agency) about the number of wagons in international traffic between the non-EU OTIF MS and EU.

#### • **NoBo<sup>6</sup> monitoring and NoBo Accreditation Scheme**

The **EU Agency** (Luca Trinca) provided an overview of the Agency's proposal for a harmonised accreditation scheme for NoBos under the Interoperability Directive 2008/57/EC and gave a progress report on the project to develop the monitoring system for NoBos under the new Interoperability Directive (EU) 2016/797 (as defined in its Article 34). The reason for a harmonised accreditation scheme was to increase mutual trust in the work performed by NoBos. The sectoral accreditation scheme used standard EN ISO/IEC 17065:2012<sup>7</sup>. In addition, the accreditation scheme's organisational structure was also explained. With regard to the monitoring system for NoBos, the purpose of which is to propose to the EC a system which would routinely monitor the quality of the work performed by NoBos, the Agency explained that the assessment scheme would be used as a reference for the monitoring scheme. It was envisaged that the task force would finalise its conclusions in September 2017.

The **Chairman** noted that monitoring of NoBos was a very important subject for the whole system and opened the discussion.

The **Secretariat** informed the meeting that it had taken part in all these EU Agency's meetings since the requirements and competencies for the EU NoBos and the OTIF assessing entities had been harmonised. It explained that in the EU, conformity assessment was a task of NoBos, which are independent bodies recognised or accredited in an EU MS. In accordance with COTIF<sup>8</sup>, the assessment could be carried out by assessing entities, which might be independent or part of the State's Competent Authority. The Secretariat welcomed the work on this item, the results of which should also be shared outside of the EU. How these results could be used or implemented in the scope of COTIF was a subject for further analysis.

<sup>6</sup> Notified Body

<sup>7</sup> EN ISO/IEC 17065:2012 "Conformity assessment - requirements for bodies certifying products, processes and services"

<sup>8</sup> Article 5 of ATMF

The **EU Agency** once again highlighted the benefits of both projects. The first project, harmonisation of the conformity assessment procedures (modules), could lead to the extension of the geographical scope of the assessment bodies, i.e. it would allow them to work in both EU and non-EU OTIF CS. The second project was intended to harmonise and improve the assessment bodies' internal procedures, and the benefits for non-EU OTIF MS could also be anticipated.

In reply to DE's questions as to whether it was necessary for NoBos to be independent of operators and/or manufacturers and who would monitor the work of the NoBos, it was confirmed that the EU Agency was still assessing whether NoBos should have independent facilities and laboratories or whether these services should be outsourced. With regard to monitoring NoBos, this had not yet been decided, although there might be some similarities with the EU Agency's new task of monitoring NSAs.

On behalf of WG TECH, the **Chairman** thanked Mr Trinca for his presentation on NoBo monitoring and the NoBo Accreditation Scheme and took note of these developments.

#### • Language requirements for international traffic

The **EU Agency** (Olaf Mette) informed the meeting that since 1 January 2016, train drivers in international traffic must have a sufficient level of knowledge of the IM's operating language. In practical terms, this meant that train drivers must be able to understand and to communicate (orally and in writing) at level B1 of the Common European Framework of Reference for Languages (CEFR) established by the Council of Europe. It was also explained that since 1 July 2016, drivers may be exempted from the B1 requirement on cross-border sections. However, this requirement would be developed further.

**CH** said it would be interested in exemptions because of its significant cross-border traffic with France, Germany and Italy. In Switzerland, it had been decided that CEFR level A1 was sufficient, if supported by a knowledge of the "Railway Operations Specific Vocabulary".

On behalf of WG TECH, the **Chairman** thanked Mr Mette for his presentation on language requirements for international traffic and took note of this development. He noted that this item was not a priority for WG TECH, but with a view to the development of interoperability in COTIF, it might become so.

#### • Status on CSM RA<sup>9</sup> developments

The **EU Agency** (Nathalie Duquenne) reminded the meeting of the developments concerning the regulations and application guides for the common safety method for risk evaluation and assessment (CSM RA) that had taken place since 2005. With regard to the application guide on CSM-DT (Design Targets), she informed the meeting that it would be published by the end of 2016. She reminded the meeting about the complementarity between guides and standards. In addition, in order to keep the ERADIS database updated, she informed the meeting that the following information was required from the non-EU OTIF CS:

- national accreditation and/or recognition bodies, as well as their recognised assessment bodies,
- assessment bodies accredited, with the area of competence for which they are accredited,
- assessment bodies recognised, with the area of competence for which they are recognised,
- all changes within one month so that ERA can make this information publicly available.

On behalf of WG TECH, the **Chairman** thanked Mrs Duquenne for her presentation on CSM RA developments. He noted the importance of the CSM application guide and the guide on CSM-DT for the railway sector and that work on them was still ongoing. He also noted that the joint ERA/OTIF CSM assessment body register would be operational later this year<sup>10</sup>. Furthermore, based on the OTIF Secretariat's circular letter, the non-EU OTIF MS would decide whether they would like to add relevant

<sup>9</sup> Commission implementing Regulation (EU) 2015/1136 of 13 July 2015 amending implementing Regulation (EU) No 402/2013 on the common safety method for risk evaluation and assessment.

<sup>10</sup> Report of WG TECH 27, page 8, 18 November 2015

information in order to keep the ERADIS database updated, as suggested by the EU Agency, but this information should be transmitted through the OTIF Secretariat.

- **ECM<sup>11</sup> scope extension**

The **EU Agency** (Nathalie Duquenne) informed the meeting about recent developments with regard to the possible extension of the scope of the ECM certification scheme to all railway vehicles (at present, only ECMs for freight wagons must be certified). She explained the ECM certification scheme and informed the meeting of the statistical data on ECM and maintenance function certificates in ERADIS. The EU Agency also informed the meeting about the scope of work of the EU Agency's working group on extending the scope of the ECM regulation and its 36 month project plan, which would comprise the following three phases: the preliminary phase by the end of 2016, in which safety critical components would be drafted, the second phase by the end of May 2018, in which the final recommendation to the EC would be submitted; the third phase, in which the approved ECM certification scheme would be published.

**CER** welcomed the fact that NSAs were also included in this newly created working group.

The **Secretariat** noted that this activity would affect equivalence with ATMF Annex A. It informed the meeting that after consulting the non-EU OTIF MS, the OTIF Secretariat had issued a position paper in February 2016 ([Annex III](#)), which had been sent to ERA. It reiterated the OTIF Secretariat's position that COTIF only covers vehicles which are operated internationally, as opposed to EU legislation, which also covers vehicles operated nationally. The cost of setting up an ECM certification scheme might therefore be higher per unit/vehicle for countries outside the EU.

On behalf of WG TECH, the **Chairman** thanked Mrs Duquenne for her presentation on extending the scope of the ECM certification scheme. He noted that there were advantages and disadvantages to this scheme and that the EU Agency had submitted a clear proposal which should also consider the situation in non-EU OTIF Contracting States.

- **Monitoring NSAs**

The **EU Agency** (Julie Dinimant) informed the meeting about the main elements of the development process in connection with monitoring NSAs. She explained that this was a newly created task for the EU Agency, which could be extended outside the EU to Norway and Switzerland and other countries, depending on the EU Agency's resources. The EU Agency aimed to introduce a three year auditing cycle, with each audit lasting three months. She also provided the meeting with more detail about the prioritisation process and the audit/inspection method which would be applied. In addition, the EU Agency informed WG TECH about its project plan: the development phase of the project, followed by a proposal for decision by the Management Board by 10 November 2016, and the implementation phase, so the first plan for NSA monitoring and auditing would start in 2017.

The **Chairman** noted that it was very important to develop cooperation between the EU Agency and NSAs in order to implement the fourth railway package, and opened the discussion.

In reply to DK's question about when the EU Agency would present the NSA monitoring plan so that NSAs could be prepared, the **EU Agency** explained that the specific plan would be discussed at the Management Board meeting on 10 November, but not before. With regard to FR's question about the funds allocated to the project and when the NSAs would be involved in this project, the EU Agency explained that the final amount for the project had not yet been decided and that the NSAs involvement would depend on the monitoring plan. It was once again highlighted that this project should contribute to the harmonisation of the NSAs' activities and therefore cooperation with NSAs was very important.

The **representative of the EUC** thanked the Chairman for supporting this activity. She also highlighted the importance of this topic for the EU Agency and explained that the decisions of the Management

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<sup>11</sup> Commission Regulation 445/2011/EU on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation EC No 653/2007

Board on this project had already been anticipated in the EU Agency's work programme. **CH** wondered if the non-EU OTIF MS would have any interest in the EU Agency's monitoring their competent authority and if so, whether they could request such monitoring through the OTIF Secretariat or directly to the EU Agency.

The **Secretariat** explained that monitoring competent authorities was not in the scope of COTIF. COTIF was a Convention between sovereign States, each of which was responsible for correctly implementing the COTIF provisions. There was no supervisory authority for COTIF responsible for monitoring the competent authorities. The relevant schemes were left to the OTIF MS to apply on their own initiative if they so wished. Therefore, in the Secretariat's opinion, if the non-EU OTIF MS were interested, they should address their requests to the EU Agency and not to the OTIF Secretariat.

The **representative of the EUC**, in view of the fact that this process was not yet defined, suggested that prior to formal communication with the EU Agency, the non-EU OTIF MS should contact the EU's representative in WG TECH informally in order to review the options. In reply to CH's question as to whether full implementation of the fourth railway package was a prerequisite for sending such a request for monitoring, she said it was premature to discuss this.

On behalf of WG TECH, the Chairman thanked Ms Dinimant for her presentation on monitoring the NSAs. He also noted that the possibility of extending NSA monitoring might also be of benefit to the non-EU OTIF CS.

- **Status of TSI LOC&PAS<sup>12</sup> developments**

The **EU Agency** (Oscar Martos) informed the meeting about the amendments to TSI LOC&PAS in connection with unique authorisation, closing the open points and an additional clause for vehicles intended for general operation, which should all be put to a vote in 2017. The first two sets of amendments had been already sent to the EC and the third set would be sent by November 2016. The meeting was also informed of the possible consequences of the fourth railway package for the TSI LOC&PAS, i.e. new "Authorisation for Placing ~~into Service~~ on the market" after renewals/upgrades, route compatibility check after authorisation and specific technical issues.

The **Secretariat** reminded the meeting that the third amendment to TSI LOC&PAS included the topic of interchangeable coaches, which had previously been initiated by WG TECH. The Secretariat asked CER whether it was satisfied with the developments being carried out by the EU Agency, as it represented the companies that would be the users of such specifications.

**CER** replied that it was generally satisfied with the progress and the developments. It also informed the meeting that the discussion on requirements for general marking was still ongoing and that CER's opinion on this subject would be published by November 2016.

On behalf of WG TECH, the **Chairman** thanked Mr Martos for his presentation on the progress of TSI LOC&PAS.

- **Status of RVR<sup>13</sup> and consequences for NVR<sup>14</sup>**

*This topic was discussed in parallel with agenda item 9*

The **EU Agency** (Massimo Bellino) presented an overview of the project entitled "Rationalisation of Vehicle-Related Registers" (RVR), the objective of which was to consolidate the vehicle-related registers<sup>15</sup> into one single system. He presented the results obtained by the working group: the RVR Intermediate Report (September 2015), the set of rationalisation actions that had been identified and the

<sup>12</sup> Technical specification for interoperability relating to the 'rolling stock — locomotives and passenger rolling stock' subsystem of the rail system in the European Union

<sup>13</sup> Working party on the rationalisation of vehicle related registers

<sup>14</sup> Commission Decision adopting a common specification of the national vehicle register provided for under Articles 14(4) and (5) of Directives 96/48/EC and 2001/16/EC

<sup>15</sup> ERATV, ECVVR, VKMR, ECMCR (ERADIS)

draft final report accompanying the recommendation for the amendment of the NVR [Decision 2007/756/EC2015 \(September 2016\)](#), and informed the meeting that the final phase of the project would be completed by December 2016. He also explained that the consequences of the fourth railway package for the RVRP project had also been considered and that the relevant findings of the RVRP project would be forwarded to the European Vehicle Register (EVR) project, which was planned to start in early 2017.

In response to CH's question on whether the rationalisation activities implied the creation of a single register, the EU Agency explained that the complex architecture of the registers had not been changed by RVRP. Instead, ~~the a centralised common~~ tool would be created ~~with the EVR with a view of providing a harmonised interface to all users for the registration of vehicles and data management with the aim of increasing the effectiveness and quality of the service when using the registers.~~ In addition, he explained that communication ~~of non-EU OTIF between different NVRs had also to be~~ ensured.

Commented [ND4]: The Agency Comment

## 8. INFORMATION ON DEVELOPMENTS IN EU REGULATIONS WHICH HAVE RELEVANCE FOR OTIF (EUROPEAN COMMISSION)

### • The technical pillar of the fourth railway package: evaluation of the impact on COTIF.

Ainhoa San Martin, the **representative of the EUC**, informed the meeting that the fourth railway package, specifically the three legal texts of the technical pillar, had been published on 26 May 2016<sup>16</sup> and had entered into force on 15 June 2016. With regard to the evaluation, she informed the meeting about the following methodology, which had been used to analyse the possible impact of the fourth railway package on COTIF:

- Identify the provisions of the technical pillar which have an impact on COTIF,
- Identify the provisions of COTIF that should be aligned with the technical pillar,
- Prepare draft amendments to be presented/discussed at WG TECH.

She also noted that the time frame for this analysis needed to be discussed further and that WG TECH should decide how to apply this methodology to ATMF and APTU, bearing in mind that some provisions would be applied directly and others would need to be transposed into the EU MS' national laws within the next 3 years. In practical terms, it would mean that some provisions of the fourth railway package would be implemented in 2019.

On behalf of WG TECH, the **Chairman** thanked Ms San Martin for her presentation. He emphasised that the equivalence between COTIF and EU law should be maintained, and opened the discussion.

The **Secretariat** was of the view that the development of EU law, such as the fourth railway package, did not directly affect or change COTIF. New authorisations issued by EU States would be valid under COTIF in accordance with the conditions set out in ATMF and vice-versa, as long as the TSI and UTP provisions were equivalent. It also reminded the meeting about the process within OTIF for adopting the relevant modifications to the Convention: after discussed at the CTE, the modification would be submitted to the Revision Committee, which was expected to be held in late 2017, and subsequently to the General Assembly, planned for 2018, for final approval. Therefore, modifications which had to be adopted by the next Revision Committee should be discussed at CTE 10, planned for June 2017, at the latest. With regard to the timeframe, it was explained that the decisions of the Revision Committee followed a procedure of notification, which took about one year until the provisions could enter into force. In other words, the earliest point at which modifications adopted by the Revision Committee could enter into force would be late 2019. It would therefore be preferable to discuss the planning at the next meeting of WG TECH.

<sup>16</sup> OJ of the EU L 138, 26.5.2016,

- Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for railways and repealing Regulation Ec n°881/2004
- Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system with the European Union
- Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety

**DK** said it would be helpful if the OTIF Secretariat were to participate in the EU meetings where the delegating and implementing acts would be discussed. The Secretariat responded that it was already being invited to RISC meetings.

The **Chairman** noted that the time schedule was extremely challenging and hoped that it would be realistic. He concluded that the European Commission would prepare the documents for the next WG TECH meeting, where the subjects needing to be aligned would be discussed.

## 9. AMENDMENT PROPOSED BY SERBIA CONCERNING NVR POINT 3.2.3a

Document: [TECH\\_16026\\_WGT29\\_9\\_e\\_NVR\\_vehicle\\_re-registration](#) Draft on Transferring vehicle registrations between NVR

Based on the suggestion from Serbia, the **Secretariat** had prepared a discussion paper (TECH\_16026\_WGT29\_9\_e\_NVR vehicle re-registration for WG TECH 29), with the aim of explaining further the issue and of providing a basis for discussion. It explained that it was not clear whether or not the transfer of vehicle registrations between different NVRs is permitted and suggested amendments to the NVR specifications to clarify the situation. It was of the view that the transfer of registrations should not be prohibited, but should probably be subject to conditions in order to avoid “register-hopping” (large scale and frequent transfers to make use of the most favourable conditions).

The **Chairman** noted the OTIF Secretariat’s amendment proposal in point 5 of the document and explained that if agreed, it would be prepared for adoption by CTE 10. He then opened the discussion.

In addition to what was said in its presentation, “Status of RVR and consequences for NVR”, the **EU Agency** confirmed that since 1 January 2014 it was no longer possible to transfer registration between the NVRs, which had previously been allowed by the repealed OPE TSIs under specific conditions. He also confirmed that the sector expressed had clear business needs for allowing the transfer between registers under certain conditions (e.g. lower insurance costs, avoidance of language barriers, more efficient fleet management, etc.). The EU Agency proposed that this topic should be discussed further, bearing in mind that clear conditions to allow transferrals should be prescribed.

Commented [ND5]: The Agency Comment

**CER** was of the opinion that the transfer of registers between different NVRs should be allowed. In its view, the creation of the EVR could help to resolve the issue.

**UIP** explained that the transfer of registrations had been possible before 1 January 2014. He reminded the meeting that compared to the period when the conditions for re-registration were specified, the business environment and obligations between the actors (keeper, RU, ECM) as prescribed by the Interoperability Directive had changed. He said that there was a business need and supported the proposal that clear conditions should be prescribed at the next CTE 10.

**RS** was of the opinion that the transfer of registers should be allowed only for sold or rented vehicles.

The **EU Agency** informed the meeting that it would discuss the issue at the next WP RVR meeting in October and that in cooperation with the OTIF Secretariat, it would incorporate a proposal into the current work on a recommendation to amend the NVR Decision.

### **The Chairman concluded item 9 as follows:**

- It was not clear at present whether or not the transfer of vehicle registrations between different NVRs is allowed.
- WG TECH identified the need for the possibility of transferring vehicle registration between NVRs; it should not be prohibited. There should, however, be clear conditions to avoid so-called “register hopping”.
- The EU Agency for Railways was best placed to develop these conditions, involving OTIF by using the existing procedures. The EU Agency would discuss the issue at the next WP RVR meeting in October.
- The EU Agency would incorporate a proposal into the current work on a recommendation to amend the NVR Decision.
- The same conditions should be taken over by OTIF, i.e.:
  - o the proposal would be discussed at WG TECH 30 (16 – 17 November), and afterwards,

- o submitted to the CTE 10 for decision (13-14 June 2017)

## 10. QUESTION RAISED DURING THE COMMITTEE OF TECHNICAL EXPERTS' 9<sup>TH</sup> SESSION: APPLICATION OF ASSESSMENT MODULES

Document: [TECH\\_16031\\_WGT29\\_10\\_e\\_Application\\_of\\_assessment\\_modules](#) of Draft on practical case raised in CTE 9

The **Secretariat** explained that CTE 9 had been asked whether a manufacturer of a type of wagon could use a type examination certificate (module SB) previously issued to another entity (e.g. manufacturer). The Secretariat issued a document that explained the question and could help provide an answer on how to proceed. It suggested that there is no provision in either of the modules preventing a wagon from being designed by one applicant and being built by another. This also means that the applicants referred to in modules SB and SD respectively can be located in different States.

The **EU Agency** supported the document submitted and agreed with OTIF Secretariat's observations.

**RS** was of the opinion that the EU Agency's application guide for TSIs<sup>17</sup> was not in line with the OTIF Secretariat's document. The EU Agency responded that it would check the provisions in the application guide and, where necessary, amend them in line with the Secretariat's document.

**FR** supported both the OTIF Secretariat and the EU Agency and informed the meeting that NB Rail<sup>18</sup> had also checked this item and confirmed that wagons could be designed by one manufacturer and built by another.

The **Chairman** noted that the OTIF Secretariat's interpretation of the application of assessment modules was correct. He also noted that the EU Agency's application guide for TSIs needed to be amended accordingly.

## 11. EU - OTIF EQUIVALENCE TABLE

Document	<a href="#">TECH_16033_WGT29_11_e_EU-OTIF_equivalence_table_02.08.2015</a>	Equivalence table EU/OTIF regulations
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The **Secretariat** informed the meeting about recent developments on both sides of the EU-OTIF equivalence table. It informed the meeting that the following had been added:

1. UTP WAG Uniform technical prescriptions Rolling Stock - freight wagons<sup>19</sup>,
2. UTP GEN-G Common safety method on risk evaluation and assessment<sup>20</sup>,
3. UTP GEN-E: "The sectoral scheme for the accreditation of the conformity assessment bodies for the purpose of notification" (added on the EU-side),
4. UTP GEN-G: The information about the mandate from the Commission that the following document needed to be reviewed and revised in order to ensure that a more consistent approach across NSAs is adopted (added to the EU side):
  - the CSMs for Conformity Assessment (1158/2010, 1169/2010), and
  - CSM on Supervision (1077/2012)

<sup>17</sup> "Guide for the application of Technical Specifications for Interoperability (TSIs)", dated 30. November 2012, ERA/GUI/07-2011/INT, link: <http://www.era.europa.eu/Document-Register/Pages/TSI-Application-Guide-general-part.aspx>

<sup>18</sup> Coordination group of NoBos at EU level

<sup>19</sup> Adopted 7 June 2016 and Notified 23 June 2016

<sup>20</sup> Ibid

5. Directive (EU) 2016/797 repealed the previous Interoperability Directive 2008/57/EC: the equivalence table had been updated accordingly.

The **Chairman** noted the information on the updated version of the equivalence table and asked WG TECH members to give the OTIF Secretariat adequate and timely feedback, if necessary.

## **12. NEXT SESSIONS**

The 30<sup>th</sup> session of WG TECH will be held on 16 and 17 November 2016 in Bern.

The 31<sup>st</sup> session of WG TECH will be held on 21 and 22 February 2017 in Rome.

The 10<sup>th</sup> session of the Committee of Technical Experts will be held on 13 and 14 June 2016 in Bern.

## **13. ANY OTHER BUSINESS**

None.

## **CLOSING REMARKS:**

The **Chairman** summarised the meeting, highlighting interoperability beyond the EU as a very complex subject which was also related to the network access conditions. As a first step, further work would be carried out on the preparation of technical, operational and safety requirements, bearing in mind that conditions concerning network access should also be developed as a next step. He also noted that noise abatement was a complex issue that could probably not be solved by a UTP amendment only, as this would also affect higher level COTIF provisions, i.e. ATMF.


The **Chairman** thanked all the participants for the productive discussion, the European Commission and the EU Agency who had prepared presentations, the OTIF Secretariat for preparing all the documents on time, and the EU Agency for its hospitality, and closed the 29<sup>th</sup> WG TECH meeting.



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## Approved Agenda

## Annex II

1. Approval of the agenda
2. General information (from the OTIF Secretariat)
  - General developments
  - UTP: process from CTE decision to entry into force
3. Election of chair
4. Approval of the minutes of the 28<sup>th</sup> session of WG TECH
5. Interoperability beyond the EU
6. Transposing the TAF TSI into a UTP
7. Information on developments in EU regulations which may affect equivalence with COTIF and discussion on next steps (European Union Agency for Railways presentations)
  - Taskforce on TSI NOI application to existing fleet
  - NoBo monitoring and NoBo Accreditation Scheme
  - Language requirements for international traffic
  - ECM scope extension
  - Status on CSM RA developments
  - Monitoring of the NSAs
  - Status of RVRR and consequences for NVR
  - Status of TSI LOC&PAS developments
8. Information on developments in EU regulations which have relevance for OTIF (European Commission)
  - Fourth Railway Package
9. Amendment proposed by Serbia concerning NVR point 3.2.3a
10. Question raised during the Committee of Technical Experts' 9<sup>th</sup> session: application of assessment modules
11. EU-OTIF equivalence table
12. Next sessions
13. Any other business



Organisation intergouvernementale pour les transports internationaux ferroviaires  
 Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr  
 Intergovernmental Organisation for International Carriage by Rail

### OTIF Secretariat's position paper concerning: scope extension of the ECM Regulation

TECH-16001-e-v1

1.2.2016

ATMF requires each vehicle used in international traffic to have an entity in charge of maintenance (ECM) assigned to it. The keeper of the vehicle must ensure this. The ECM ensures 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 for a freight wagon must be certified by an ECM certification body in accordance with Annex A to ATMF.

*Each type of vehicle used internationally in the scope of COTIF must have an ECM assigned to it. For freight wagons the ECM must be certified in accordance with Annex A to ATMF.*

The reason for special provisions to apply for freight wagons may be explained by their specific way of use. Unlike most other types of rail vehicles, freight wagons are often exchanged between railway undertakings. After liberalisation of the freight market in the EU, there may be tens of different railway undertakings consecutively operating the same wagon. As a result, the operating railway undertaking will in principle not be in a position to check whether or not each wagon is well maintained. Therefore, an additional layer of certainty was created to ensure that freight wagons are properly maintained. By application of Annex A to ATMF, ECM are audited and certified in a harmonised way to ensure they have the necessary skills and know-how to fulfil their responsibilities. Their certification principles are equivalent between EU law<sup>21</sup> and COTIF.

*Freight wagons are exchanged often between railway undertakings. Each railway undertaking should be able to trust that the wagon is well maintained and safe to use; it is the task of the ECM to ensure this. The independent certification of the ECM gives the railway undertaking confidence that the maintenance is well managed.*

*The existing ECM provisions as set out in Annex A to ATMF are sufficient for this purpose.*

Many other types of rolling stock, such as for example locomotives and train sets, are often operated by only one railway undertaking. In addition it is not uncommon for this railway undertaking to also be at the same time also the keeper of the vehicle, or the ECM, or both. For these reasons there will be fewer

<sup>21</sup> COMMISSION REGULATION (EU) No 445/2011 of 10 May 2011 on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) No 653/2007 (Text with EEA relevance)

doubts for the railway undertaking as to whether or not the maintenance was performed in a good way. As a result there is less need for independent certification of the ECM for these types of vehicles.

*If the keeper and the ECM of a vehicle and the railway undertaking using the vehicle are all the same entity, the railway undertaking is well placed to directly influence the quality of maintenance. In such case, there is no obvious need for independent certification of the ECM.*

A special category is formed by passenger coaches. Like freight wagons, coaches can also be operated in a pool by several railway undertakings, however there are also distinct differences between the two types of vehicles concerning ECM. Firstly, more than half of all freight transport is international, compared to less than ten percent of all passenger traffic. This makes that a major part of the freight wagon fleet will be used internationally and therefore in the scope of COTIF, whereas a much smaller proportion of all passenger coaches will be used in the scope of COTIF. Secondly, the size of the fleet of freight wagons is much larger than the fleet of coaches, allowing bigger economies of scale for measures related to freight wagons.

*Passenger coaches are exchanged between railway undertakings in international traffic, and therefore ECM certification may be equally justified for this kind of vehicles. However, the number of passenger coaches used in international traffic is much smaller than the number of freight wagons, the costs related to ECM certification per passenger coach could therefore be higher than the costs per freight wagon.*

The question is not if ECM certification brings benefits, the question is whether the benefits outweigh the costs. Certification comes at costs, such as costs for establishing a certification body, training its staff, performing audits, administrative costs, etc. All these costs will be introduced into the railway system, making it more expensive and potentially affecting its competitiveness against other modes. Decisions to introduce new rules should therefore be taken with great care and it should be likely that the benefits outweigh the costs.

As mentioned, a great portion of all freight wagons is operated internationally, both in and outside the EU. The costs/benefits of ECM certification for freight wagons would therefore be similar in or outside the EU. The situation for other types of vehicles is different. In the EU, a possible scope extension of the ECM regulation would cover all vehicles, no matter if they are used internationally or only domestically. As COTIF only covers international traffic, the costs and benefits of a possible ECM scope extension outside the EU should take into account only those vehicles which are used internationally. In the EU the certification costs may therefore be divided over a higher number of vehicles than outside the EU.

*With the exception of freight wagons, the costs for ECM certification divided over the number of vehicles concerned are much higher outside the EU than in the EU.*

On the other hand, if an ECM certification body can certify ECMs for freight wagons as well as ECMs for other types of vehicles, the certification itself may benefit from economies of scale, potentially reducing certification costs for freight wagon ECMs. For this reason it may be efficient if the same ECM certification bodies could certify both ECMs for freight wagons as well as ECMs for other types of vehicles.

#### POSITION:

- ECM certification for freight wagons is fully applicable in COTIF international law since 2013 and forms an elementary part of the legal framework to facilitate the use of freight wagons in international traffic.

- ECM certification for passenger coaches used internationally would be justified from a conceptual point of view, as coaches may be exchanged between several railway undertakings in a way that is comparable to freight wagons.
- For Member States with a small fleet of coaches that is used internationally, the costs per vehicle for ECM certification may be high. As long as there is no indication that there is a safety problem, the OTIF Secretariat suggests that ECM certification should remain voluntary for passenger coaches.
- ECM certification for vehicles which are neither wagons nor coaches (such as locomotives or train sets) should not be mandatory for two reasons. Firstly, it is quite common that the railway undertaking operating the vehicle is at the same time also the keeper and the ECM of the vehicle. In such case there is no question about responsibilities and the railway undertaking is in a good position to influence the quality of maintenance. Secondly, the number of these kinds of vehicles that is used internationally under COTIF<sup>22</sup> is limited, thus certification of ECM might lead to high costs per vehicle with limited benefits.
- For types of vehicles where ECM certification would be voluntary, Member State should not refuse the international use of vehicles without a certified ECM, even if the State would require mandatory ECM certification for its domestic fleet.

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<sup>22</sup> Vehicles used internationally in the EU between EU Member States are subject to provisions of EU law. This means that e.g. TGVs, Eurostars or ICEs travelling within the EU are not concerned.