



Organisation intergouvernementale pour les transports internationaux ferroviaires

Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr

Intergovernmental Organisation for International Carriage by Rail

# COTIF 1999

Modification of the Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic  
(APTU – Appendix F to the Convention)

Authentic text

adopted by the Revision Committee at its 24<sup>th</sup> session (23–25.6.2009)

**OTIF**



**ORGANISATION INTERGOUVERNEMENTALE POUR  
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN  
INTERNATIONALEN EISENBAHNVERKEHR**

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NATIONAL CARRIAGE BY RAIL**

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**Commission de révision  
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Partial revision of Appendix F (APTU) of the Convention  
(Text as modified and Explanatory Report)

## **Article 1**

### **Scope**

These Uniform Rules lay down, for railway material intended to be used in international traffic, the procedure for the validation of technical standards and the adoption of Uniform Technical Prescriptions (UTP).

## **Article 2**

### **Definitions**

For the purposes of these Uniform Rules, their Annex(es) and the UTP, in addition to the terms defined in Article 2 of ATMF, the term

- a) "carriage" (or "coach") means a railway vehicle, not provided with a means of traction, which is intended to carry passengers; the term includes a luggage wagon which is intended to be carried in a passenger train;
- b) "project in an advanced stage of development" means any project whose planning/construction stage has reached a point where a change in the technical specifications would be unacceptable to the Contracting State concerned. Such an impediment may be legal, contractual, economic, financial, social or environmental in nature and must be duly substantiated;
- c) "substitution in the framework of maintenance" means any replacement of components by parts of identical function and performance in the framework of preventive or corrective maintenance;
- d) "technical prescription" means a rule, other than a technical standard, included in the UTP, relating to the construction, operation, maintenance or safety aspects, or relating to a procedure concerning railway material;
- e) "technical standard" means a voluntary standard adopted by a recognised international standardisation body, according to the procedures applicable to it;
- f) "traction unit" means a railway vehicle provided with a means of traction;
- g) "wagon" means a railway vehicle, not provided with a means of traction, which is intended to carry goods.

## **Article 3**

### **Aim**

§ 1 The validation of technical standards relating to railway material and the adoption of UTP applicable to railway material shall have as its aim to

- a) facilitate the free circulation of vehicles and the free use of other railway material in international traffic,
- b) contribute to ensuring the safety, efficiency and the availability for international traffic,
- c) take account of the protection of the environment and public health.

§ 2 When technical standards are validated or UTP are adopted, only those prepared at the international level shall be taken into account.

§ 3 To the extent possible

- a) it is appropriate to ensure interoperability of technical systems and components necessary for international traffic;
- b) technical standards and UTP shall be performance related; if appropriate, they shall include variants.

#### **Article 4**

##### **Preparation of technical standards and UTP**

§ 1 The preparation of technical standards concerning railway material and the standardisation of industrial products and procedures shall be the responsibility of recognised national and international standardisation bodies.

§ 2 The preparation of UTP shall be the responsibility of the Committee of Technical Experts assisted by appropriate working groups and the Secretary General on the basis of applications made in accordance with Article 6.

#### **Article 5**

##### **Validation of technical standards**

§ 1 The Committee of Technical Experts shall decide whether to validate a technical standard or specific parts of it in accordance with the procedure laid down in Articles 16, 20 and 33 § 6 of the Convention. The decisions shall enter into force in accordance with Article 35 §§ 3 and 4 of the Convention.

§ 2 An application for validation of a technical standard may be made by:

- a) any Contracting State;
- b) any regional organisation as defined in Article 2 x) of ATMF;
- c) any national or international standardisation body having the task of standardisation in the railway field; Article 3 § 2 shall be taken into account;
- d) any representative international association for whose members the existence of technical standards relating to railway material is indispensable for reasons of safety and economy in the exercise of their activity.

§ 3 The references to validated technical standards shall be published by the Secretary General on the website of the Organisation. Once the reference is published, the application of this technical standard gives presumption of compliance with the corresponding UTP.

§ 4 The application of validated technical standards is voluntary; however, a standard or a part of it may be made obligatory through provisions in a UTP.

## **Article 6**

### **Adoption of UTP**

- § 1 The Committee of Technical Experts shall decide whether to adopt a UTP or a provision amending it in accordance with the procedure laid down in Articles 16, 20 and 33 § 6 of the Convention. The decisions shall enter into force in accordance with Article 35 §§ 3 and 4 of the Convention.
- § 2 An application for adoption of a UTP or a provision amending it according to § 1 may be made by:
- a) any Contracting State;
  - b) any regional organisation as defined in Article 2 x) of ATMF;
  - c) any representative international association for whose members the existence of UTP relating to railway material is indispensable for reasons of safety and economy in the exercise of their activity.

## **Article 7**

### **Form of applications**

Applications referred to in Articles 5 and 6 shall be sent to the Secretary General and addressed to the Committee of Technical Experts in one of the working languages according to Article 1 § 6 of the Convention. The Committee of Technical Experts may reject any application, if it considers the application not to be complete, coherent, properly reasoned or justified. The application shall include an assessment of social, economic and environmental consequences.

## **Article 7a**

### **Assessment of consequences**

- § 1 The Committee of Technical Experts shall take its decision after consideration of the reasoning and justification provided by the applicant.
- § 2 The assessment shall indicate the likely impact for all Contracting States, operators and other relevant actors concerned. If the proposal has an impact on UTP other than the one for which the proposal is directly intended, these interfaces shall also be taken into account.
- § 3 All concerned entities shall participate in the assessment by providing free of charge the requisite data unless covered by intellectual property rights.

## **Article 8**

### **UTP**

- § 1 The adopted UTP shall be published on the website of the Organisation.
- § 2 In principle, each subsystem shall be subject to one UTP. Where relevant, a subsystem may be covered by several UTP and one UTP may cover several subsystems.
- § 2a The UTP shall apply to new subsystems. They shall also apply to an existing subsystem when it is renewed or upgraded and in accordance with the migration strategy referred to in § 4 f).
- § 3 After the notification process according to Article 35 §§ 3 and 4 of the Convention and at least one month before entry into force, the Secretary General shall publish on the website of the Organisation
- a) the adopted and notified UTP;
  - b) the date of its entry into force;
  - c) the list of Contracting States to which this UTP applies;
  - d) the updated list of UTP and their date of entry into force.
- § 4 To the extent necessary to achieve the aim set out in Article 3, the UTP referring to subsystems shall at least:
- a) indicate its intended scope (part of network or vehicles; subsystem or part of subsystem);
  - b) lay down essential requirements for each subsystem concerned and its interfaces vis-à-vis other subsystems;
  - c) establish the functional and technical specifications to be met by the subsystem and its interfaces vis-à-vis other subsystems. If need be, these specifications may vary according to the use of the subsystem, for example according to the categories of line, hub and/or vehicles;
  - d) determine the elements of construction or interoperability constituents and interfaces which must be covered by technical standards, which are necessary to achieve interoperability within the rail system;
  - e) state, in each case under consideration, which procedures are to be used in order to assess the conformity with the provisions of the UTP. These procedures shall be based on the assessment modules defined in a general UTP referred to in § 8;
  - f) indicate the strategy for implementing the UTP. In particular, it is necessary to specify the stages to be completed in order to make a gradual transition from the existing situation to the final situation in which compliance with the UTP

shall be the norm; for each stage, appropriate transitional provisions shall be included and

- g) indicate, for the staff concerned, the professional qualifications and health and safety conditions at work required for the operation and maintenance of the subsystem concerned, as well as for the implementation of the UTP.

§ 5 Each UTP shall be drawn up on the basis of an examination of an existing subsystem and indicate one or more target subsystems that may be obtained gradually within a reasonable time scale. Accordingly, the gradual adoption of the UTP and compliance therewith will help gradually to achieve the interoperability of the rail system.

§ 6 The UTP shall retain, in an appropriate manner, the compatibility of the existing rail system of each Contracting State. With this objective, provision may be made in each UTP for “specific cases” covering one or more Contracting States, with regard to both network and vehicles; special attention must be given to the loading gauge, the track gauge or space between the tracks and to vehicles originating from or destined for third countries. For each specific case, the UTP shall stipulate the implementing rules of the elements indicated in § 4 c) to g).

§ 7 If certain technical aspects corresponding to the essential requirements cannot be explicitly covered in the UTP, they shall be clearly identified in it as “open points”.

§ 8 The Committee of Technical Experts may adopt UTP which do not refer to subsystems, such as general provisions, essential requirements or assessment modules.

§ 9 The UTP shall have a two column format. Text which appears in full width without columns is identical to corresponding texts of the European Community Technical Specifications for Interoperability (TSI). Text which is split into two columns is different for the UTP and for the corresponding TSI or other corresponding European Community regulations. The left-hand column shows the UTP text (OTIF regulations), while the right-hand column shows the European Community TSI text. On the far right the TSI reference is indicated.

### **Article 8a** **Deficiencies in UTP**

§ 1 If it comes to the attention of the Committee of Technical Experts that an adopted UTP contains errors or deficiencies including where an adopted UTP does not fully meet the essential requirements, the Committee shall take the appropriate measures including:

- a) the decision whether the relevant UTP may need to be amended in accordance with Articles 6 and 8 and
- b) recommendations for justified provisional solutions.

§ 2 The Contracting States, regional organisations and assessing bodies have the obligation to inform the Secretary General without delay if they discover errors or deficiencies in a UTP.

## **Article 9 Declarations**

- § 1 Any Contracting State may, within a period of four months from the day of notification of the decision of the Committee of Technical Experts by the Secretary General, make a reasoned declaration notifying him that it will not apply or will apply only partially, the validated technical standard or the adopted UTP, so far as it concerns the railway infrastructure situated on its territory and the traffic on that infrastructure.
- § 2 The Contracting States which have made a declaration in accordance with § 1 shall not be taken into account in determining the number of States which must formulate an objection in accordance with Article 35 § 4 of the Convention, in order that a decision of the Committee of Technical Experts should not enter into force.
- § 3 A State which has made a declaration in accordance with § 1 may withdraw it at any time by notification to the Secretary General. This withdrawal shall take effect on the first day of the second month following the notification.

## **Article 10 Abrogation of Technical Unity**

The entry into force of the UTP, adopted by the Committee of Technical Experts in accordance with Article 6 § 1, in all the States parties to the 1938 version of the International Convention on the Technical Unity of Railways, signed at Berne on 21 October 1882, shall abrogate that convention.

## **Article 11 Precedence of the UTP**

- § 1 With the entry into force of the UTP, adopted by the Committee of Technical Experts in accordance with Article 6 § 1, the technical standards and the UTP shall take precedence, in relations between Contracting States, over the provisions of the 1938 version of the International Convention on the Technical Unity of Railways, signed at Berne on 21 October 1882.
- § 2 With the entry into force of the UTP, adopted by the Committee of Technical Experts in accordance with Article 6 § 1, these Uniform Rules as well as the technical standards and the UTP, shall take precedence, in the Contracting States, over the technical provisions
- a) of the Regulation governing the reciprocal use of carriages and brake vans in international traffic (RIC),
  - b) of the Regulation governing the reciprocal use of wagons in international traffic (RIV).



## **Article 12**

### **National technical requirements**

§ 1 Contracting States shall ensure that the Secretary General is informed of their national technical requirements which apply to railway vehicles and other railway material. The Secretary General shall publish these requirements in the data bank referred to in Article 13 of the ATMF Uniform Rules.

The information shall be received by the Secretary General within 3 months from the day when the revised Uniform Rules enter into force.

Such a requirement may stay in force only until it or an analogous requirement is brought into force through the adoption of prescriptions according to the Articles above. The Contracting State may at any time withdraw the temporary provision and notify this to the Secretary General.

§ 2 When a UTP has been adopted or amended, the Contracting State shall ensure that the Secretary General is informed - with justification - of those national technical requirements mentioned in § 1 which it will still require to be complied with in order to ensure the technical compatibility between the vehicles and its network concerned; this includes national rules applicable to “open points” in the technical prescriptions and applicable to the specific cases duly identified in the technical prescription.

The information shall include indication of the “open point(s)” and/or “specific case(s)” in the UTP to which each national technical requirement relates.

The national technical requirements shall only remain valid if the notification is received by the Secretary General within 6 months from the day when the technical prescription in question or the change to it has entered into force.

§ 3 The information shall include the full text of the national technical provision in an official language of the Contracting State as well as the title and a summary in one of the official OTIF languages.

## **Article 13**

### **Equivalence table**

§ 1 In order to minimise the assessments and thereby the costs for applying for a technical admission, national technical requirements in accordance with Article 12 shall be classified pursuant to the list of parameters and the principles set out in the Annex to these Uniform Rules. The classification shall be carried out under the responsibility of the Committee of Technical Experts. The Contracting States and the regional organisations shall cooperate with the Committee of Technical Experts and the Secretary General in this task.

§ 2 The Committee of Technical Experts may review the Annex taking account of the experience with the cross-acceptance of vehicles in the Contracting States.

§ 3 The Committee of Technical Experts shall ensure that a reference document is drawn up cross-referencing all the notified national technical requirements. The reference document shall also indicate the relevant provisions in the UTP and the

corresponding TSI (Article 8 § 9). The reference document shall be published on the website of the Organisation and shall be kept up to date.

§ 4 Taking due account of the opinion of the Contracting States concerned and of the regional organisations involved, the Committee of Technical Experts may decide to declare the equivalence in railway safety terms:

- a) between national technical requirements of different Contracting States;
- b) between provisions in the UTP and the corresponding TSI; and
- c) between national technical requirements of one or more Contracting States and provisions in the UTP and/or provisions in the TSI.

The declared equivalence shall be indicated in an equivalence table in the reference document mentioned in § 3 above.

## ANNEX

**PARAMETERS TO BE CHECKED IN CONJUNCTION WITH THE  
TECHNICAL ADMISSION OF NON-UTP CONFORM VEHICLES AND  
CLASSIFICATION OF THE NATIONAL TECHNICAL REQUIREMENTS****1. LIST OF PARAMETERS**

## 1.1 General documentation

*General documentation (including description of new, renewed or upgraded vehicle and its intended use, design, repair, operation and maintenance information, technical file, etc.)*

## 1.2 Structure and mechanical parts

*Mechanical integrity and interface between vehicles (including draw and buffer gear, gangways), strength of vehicle structure and fittings (e.g. seats), loading capability, passive safety (including interior and exterior crashworthiness)*

## 1.3 Track interaction and gauging

*Mechanical interfaces to the infrastructure (including static and dynamic behaviour, clearances and fits, gauge, running gear, etc.)*

## 1.4. Braking equipment

*Braking-related items (including wheel-slide protection, braking control, and braking performance in service, emergency and parking modes)*

## 1.5 Passenger-related items

*Passenger facilities and passenger environment (including passenger windows and doors, requirements for persons with reduced mobility, etc.)*

## 1.6 Environmental conditions and aerodynamic effects

*Impact of the environment on the vehicle and impact of the vehicle on the environment (including aerodynamic conditions and both the interface between the vehicle and the trackside part of the railway system and the interface with the external environment)*

## 1.7 External warning, marking, functions and software integrity requirements

*External warnings, markings, functions and integrity of software, e.g. safety-related functions with an impact on train behaviour including train bus*

1.8 Onboard power supply and control systems

*Onboard propulsion, power and control systems, plus the interface of the vehicle with the power supply infrastructure and all aspects of electromagnetic compatibility*

1.9 Staff facilities, interfaces and environment

*On-board facilities, interfaces, working conditions and environment for staff (including drivers' cabs, driver machine interface)*

1.10 Fire safety and evacuation

1.11 Servicing

*Onboard facilities and interfaces for servicing*

1.12 Onboard control, command and signalling

*All the on-board equipment necessary to ensure safety and to command and control movements of trains authorised to travel on the network and its effects on the trackside part of the railway system*

1.13 Specific operational requirements

*Specific operational requirements for vehicles (including degraded mode, vehicle recovery etc.)*

1.14 Freight related items

*Freight-specific requirements and environment (including facilities specifically required for dangerous goods)*

Explanations and examples *in italics* above are for information only and are not definitions of the parameters.

## 2. CLASSIFICATION OF THE NATIONAL TECHNICAL REQUIREMENTS

The national technical requirements relating to the parameters identified in section 1 shall be attributed to one of the following three groups. Rules and restrictions of a strictly local nature are not involved; their verification involves checks to be put in place by mutual agreement between the railway undertakings and the infrastructure managers.

### **Group A**

Group A covers:

- international standards,
- national rules deemed to be equivalent, in railway safety terms, to national rules of other Member States,
- national rules deemed to be equivalent, in railway safety terms, to the provisions in the UTP and/or provisions in the TSI.

### **Group B**

Group B covers all rules that do not fall within the scope of Group A or Group C, or that it has not yet been possible to classify in one of these groups.

### **Group C**

Group C covers rules that are strictly necessary and are associated with technical infrastructure characteristics, in order to ensure safe and interoperable use in the network concerned (e.g. the loading gauge).

## **Explanatory Report**

**NOTE:** The general remarks and the remarks on individual provisions in this Explanatory Report contain a summary of the information in relation to the following points:

- a) Background to and justification for the amendments that were submitted to the Revision Committee and adopted by it, and
- b) Discussion on the provisions for which the General Assembly is responsible in accordance with Article 33 §§ 2 and 4 (f) of the Convention, including editorial amendments.

The information mentioned in

- a) has been examined and approved by the Revision Committee, together with the approved amendments and the General Assembly has noted them;
- b) has been examined and approved by the General Assembly following the Revision Committee's considerations and recommendations in this respect.

### **General Remarks**

1. The General Assembly's decisions at its 7th and 8th sessions to support initiatives to resolve the legal and practical problems between the law of the European Community (EC) and COTIF 1999 envisage that the open questions with regard to Appendices F and G to COTIF 1999 should be discussed at technical level in conjunction with their implementation in order to find practical solutions. This might lead to meetings between the Secretary General and the European Commission and/or to the setting up of appropriate working groups.
2. A revision group set up in 2004, the so-called "Schweinsberg Group", looked at realising these decisions and considered further significant developments in relevant provisions within the EC that had taken place since the Vilnius Protocol was adopted, notably the drafting of harmonised technical specifications for interoperability and acceptance procedures (Directives 96/48/EC, 2001/16/EC, 2004/49/EC and 2004/50/EC). All the Member States of OTIF, the European Commission and the sectoral organisations were invited to take part in this group. The objective the group set itself was to ensure compatibility between the rules of COTIF and EC legislation, particularly the "interoperability directives", by reviewing and revising the APTU and ATMF Appendices in accordance with the following principles:
  - a) The Member States of OTIF that are also members of the EC or the EEA are entitled to perform transport taking place exclusively between their territories exclusively in accordance with EC legislation;
  - b) Railway vehicles and other railway material from EC/EEA Member States may be approved for international traffic in Member States of OTIF that are not members of the EC or the EEA on the basis of the certifications and approvals issued in accordance with EC legislation;

- c) Railway vehicles and other railway material from Member States of OTIF that are not members of the EC or the EEA may be approved for international traffic in EC/EEA Member States on the basis of the certifications and approvals issued in accordance with the COTIF 1999 system.
3. It was agreed that the Technical Specifications for Interoperability (TSI), as envisaged by the EC interoperability legislation, would be used as the COTIF 1999 “standard level” thereby ensuring full compatibility and that a “variant” would form a range of provisions contained in an APTU Annex that would give a group of non EC/EEA Member States the opportunity of applying a specification meeting a RAMS level (Reliability, Availability, Maintenance, Safety) other than that of a TSI.
4. The outcome of the first phase of the revision group’s meetings (2004-2006) was a proposal to amend the APTU and ATMF Appendices in such a way that
  - a) it is sufficient for the EC/EEA Member States of OTIF to approve operations between the EC/EEA Member States exclusively on the basis of EC legislation;
  - b) it is sufficient for railway vehicles and other railway material from EC/EEA Member States to have certifications and approvals issued in accordance with EC legislation and assessments according to national requirements for the relevant network (compatibility) in order to be approved for international traffic in non EC/EEA Member States of OTIF;
  - c) railway vehicles and other railway material from non EC Member States of OTIF which
    - are approved for traffic (“admitted to operation”) on the basis of the COTIF 1999 “standard level” (identical to the TSI), shall also be approved for traffic or use in the EC Member States on the basis of the certifications and approvals issued in accordance with the COTIF 1999 system and assessments according to national requirements for the relevant network, or if these
    - are approved for traffic (“admitted to operation”) on the basis of a COTIF “variation” (see below), they shall also be approved for traffic or use in the EC Member States on the basis of the certifications and approvals issued in accordance with the COTIF 1999 system and the assessments according to national requirements for the relevant network, provided certain requirements of the standard level, particularly with regard to safety, are met.
5. The proposal included
  - a) a range of amendments to APTU aimed particularly at aligning the APTU Annexes with the existing and planned TSI, creating the opportunity of including special cases and variations and of including new rules to clarify the relationship between the existing national technical requirements and the APTU Annexes, and

b) a range of amendments to ATMF aimed at ensuring equivalence between the various stages of the approval process in the EC interoperability directive and COTIF 1999 and thereby making cross-acceptance of the assessment authorisations and admissions/approvals possible.

6. If one compares the procedure prescribed by EC legislation and the procedure of the correspondingly amended ATMF, the various elements correlate as follows:

<b>EC</b>		<b>COTIF</b>	
MEMBER STATE		MEMBER STATE	
“Authorisation for placing into service”		“Admission to operate”	
-----			
APPLICANT OR MANUFACTURER			
“EC declaration of verification”			
-----			
Subsystem	NOTIFIED BODY	MEMBER STATE or “suitable body”	
	“EC certificate of verification”	“Admission of a type of construction”	certification/declaration (voluntary)
Interoperability constituents	-----	“Construction elements”	certification/declaration (voluntary)
	“EC declaration of conformity or suitability”		
ESSENTIAL REQUIREMENTS		ESSENTIAL REQUIREMENTS	
TSI		Uniform Technical Prescriptions	
European standards		Validated technical standards	
National rules		National technical requirements	



7. The fact that these documents are mutually recognised constitutes an important provision in the revised Appendices. Verification is carried out in accordance with the same technical provisions (provided the APTU Annex corresponds to the relevant TSI) and is carried out by organs that have been nominated with correspondingly clear responsibilities and criteria concerning their qualifications and independence.
8. One of the main prerequisites was that it had to be possible for the OTIF Revision Committee to adopt the requested amendments to the Appendices. Thus amendments could not concern those Articles which, according to the Convention, may only be amended by OTIF's General Assembly and which must subsequently be ratified – in other words, it was necessary to avoid a further delay of several years before the amendments were ratified and could enter into force.
9. The revised draft versions of the APTU and ATMF Appendices were brought to the attention of the Committee of Technical Experts (CTE) at its first session in July 2006, but at that time, the Revision Committee could not yet subsequently be tasked with looking at the drafts as the EC asked for more time to review the drafts. At the second session of the CTE in June 2007, the EC Member States submitted a common Community position with a number of substantial comments, principally that the APTU and ATMF Appendices needed further revision in order to simplify them (the concept of variations overlapped with other possibilities, such as specific cases and exemptions) and in order to take account of the EC's new plans to amend its regulations, e.g. those relating to mutual recognition and to include entities in charge of vehicle maintenance.
10. In addition to the technical working group, WG TECH, which began its work after the first session of the CTE, the second session of the CTE set up another working group, WG LEGAL, to discuss the legal aspects of the amendments to the technical Appendices F and G.
11. WG LEGAL started its work by discussing a proposal from the Secretariat concerning a new Article 3a of ATMF and the broader link between the interoperability directives and the APTU and ATMF Appendices. The aim of Article 3a of ATMF was to include in this Article the specific law for the EC/EEA Member States to apply Community law to vehicles which are only used in transport between the EC/EEA Member States. With regard to the format of the APTU Annexes, WG LEGAL came to the conclusion that a simple reference to the TSI would not be acceptable and instead adopted the Secretariat's proposal for a two-column format; identical/equivalent provisions would be shown across the whole width of the page (both columns), whilst provisions specific to COTIF 1999 would be shown in the left-hand column and the corresponding EC provisions (TSI and/or others) would be shown in the right-hand column, but only for information. This way, both sets of provisions could be shown in the same document.
12. With regard to the further revision of the APTU and ATMF Appendices, it was concluded that the Schweinsberg Group should be reactivated and given the task of looking at whether further amendments to Appendices F and G that would result from the outcome of developments in the EC provisions were necessary. The Group

was to be asked to draft the necessary amendments by revising the versions that were produced between 2004 and 2006.

13. The main aim was to align both Appendices with the principles of the new version of the EC interoperability directive (Directive 2008/57/EC). Once it had started its work, the Group also dealt with the soon to be adopted revision of the EC Safety Directive (2008/110/EC), to the extent that vehicle maintenance was concerned.
14. In June 2008, it was decided to relinquish the “variants” included in the proposals from the period 2004-2006 and to replace them with the possibility of achieving the same aim by including specific cases (extended and common to more than one State) or alternative target systems included in the APTU UTP and by considering exemptions. In addition to technical reasons, economic reasons are also accepted as justification for a Member State’s application to apply such a solution.
15. At the 3rd session of the CTE (11/12 February 2009), the proposals to amend the APTU and ATMF Appendices were discussed again and it was agreed that these should now be submitted to the Revision Committee for adoption. When submitting them, the Secretariat should take into account three suggestions on details that were raised at the meeting and to ensure correct terminology and consistency.
16. On the part of the European Commission, it was explained that from the technical point of view, there were no objections to the texts of the amendments to the APTU and ATMF Appendices. On legal aspects, comments were subsequently provided by the legal service, and these have been taken into account in the explanations on the relevant provisions.
17. When the Explanatory Report refers to EC Member States, it also applies *mutatis mutandis* to States where the Community legislation applies as a result of international agreements with the European Community.
18. The Revision Committee (24<sup>th</sup> session, Berne, 23-25.6.2009) followed to a large extent the suggestions made by the Schweinsberg Group as endorsed by the CTE. Article 4 § 2 was amended in order to avoid misunderstandings concerning the procedure to be followed according to Article 6 and the relevant provisions of the Convention. Furthermore the impact of newly adopted UTP to existing subsystems was clarified by inserting a new § 2a in Article 8. Section 1 of the Annex was replaced by a newer version. The Revision Committee also agreed on additional text to be included in the Explanatory Report in particular on Articles 9 to 11 (for details see the relevant particular remarks).
19. The 9<sup>th</sup> General Assembly (Berne, 9/10.9.2009) noted the results of the 24<sup>th</sup> session of the Revision Committee concerning the amendments to Appendix F (APTU) of the Convention and the Explanatory Report and approved the editorial amendments and the Explanatory Report on Articles 1, 3 and 9 to 11 of APTU. It noted that these amendments are not decisions to which Article 34 of the Convention applies and instructed the Secretary General with regard to bringing these amendments into force to proceed in accordance with Article 35 of COTIF. It also authorised the Secretary General to summarise its decisions on the results of the Revision Committee in the general part of the Explanatory Report.

### **In detail**

**Articles marked with \* may not be changed by the Revision Committee, only by the General Assembly.**

#### **Article 1 \*** **Scope**

According to Article 33 §§ 2 and 4 (f) of the Convention, only the General Assembly could decide on an amendment to this Article, not the Revision Committee. The Article lays down the general scope. The specific rules on the cases in which provisions adopted according to the procedures under APTU for the use of railway material in international transport are applicable, particularly when this concerns States in which EC law applies, are dealt with in the amended ATMF. Where particular matters are not covered by APTU and ATMF or by the provisions that are based on them, it is generally community law on approvals (“admissions”), interoperability and safety that applies in the case of the States referred to.

#### **Article 2** **Definitions**

In order to avoid expanding the texts unnecessarily, it was decided only to include in Article 2 of ATMF terms that are used in both Appendices. This Article in APTU therefore contains a reference to the definitions in ATMF as well as definitions of those terms that are only used in APTU. In the English version, the terms are arranged alphabetically. The other language versions follow the sequence of the English version.

#### **Article 3 \*** **Aim**

According to Article 33 §§ 2 and 4 (f) of the Convention, only the General Assembly could decide on an amendment to this Article, not the Revision Committee. The term “variants” used in § 3 should be understood not as a *terminus technicus*, but as an overarching term for corresponding terms taken from the TSI, such as the terms “alternative target system”, “specific case” and “open point”.

#### **Article 4** **Preparation of technical standards and UTP**

1. This Article clarifies responsibilities of:
  - a) standardisation bodies for technical standards concerning railway material and for the standardisation of industrial products and procedures (§ 1) and
  - b) the CTE for the UTP, which corresponds to Articles 20 and 33 § 6 of the Convention, with specific support from working groups and the Secretary General.
2. § 2 shall not prevent the Secretary General from supporting applicants according to Article 6 § 2.

## **Article 5**

### **Validation of technical standards**

1. In § 1, which corresponds to § 2 in the 1999 version of APTU, reference is made to the provisions of the Convention that are significant for the decision on validation. The validation of a standard means that the CTE ascertains that the provisions of this standard or of more precisely defined parts of it can be used as a viable solution for indication of the fulfilment of legal requirements. Application of validated standards is voluntary. In addition however, such validated standards or validated parts of standards can be made into binding requirements by means of a provision in the UTP.
2. § 2 corresponds to § 1 in the 1999 version of APTU.
3. §§ 3 and 4 are new. In § 3, the Secretary General is required to publish references to validated technical standards on OTIF's website; the voluntary application in accordance with § 4 of a technical standard published thus is linked to a positive legal consequence. The voluntary application of a validated standard does not preclude the assessing entity from checking the correct use of it and the compliance with the regulations.

## **Article 6**

### **Adoption of UTP**

In § 1, which corresponds substantially to § 2 of the 1999 version of APTU, reference is made to the provisions of the Convention that are significant for the decision on the adoption of a UTP. Text was added to this paragraph, and to § 2, which otherwise corresponds to § 1 of the 1999 version of APTU, to the effect that the decision may also affect amendments to an adopted UTP.

## **Article 7**

### **Form of applications**

This Article has been extended. It was made clear that the application

- is indeed to be sent to the Secretary General, although it is intended for the CTE,
- must also contain an assessment of the social and economic consequences and of the effects on the environment, and
- may, for certain reasons, be refused by the CTE.

## **Article 7a**

### **Assessment of consequences**

1. This Article is new. The consequences for all
  - Contracting States,
  - transport undertakings,
  - other actors in relevant areas of activity and

- other UTP, where there are interfaces with them

must be assessed.

2. According to § 3 the entities concerned must provide data free of charge.

### **Article 8**

#### **UTPs**

1. The title was amended because the annexes listed in the 1999 version of APTU have been replaced with the UTP, which correspond to the TSI and which, according to §§ 1 and 3, must be published on OTIF's website. The UTP have to be published with their date of entry into force. The website will show an updated list of the UTP, with information on which Contracting States apply them.
2. The wording of the Article was also completely revised along the lines of the principles for TSI.
3. § 2a has been included in order to clarify the impact of a newly adopted UTP on existing subsystems, concerning e.g. an existing wagon, locomotive, passenger coach or piece of infrastructure.
4. § 9 contains the basis for the two-column layout. The texts of the UTP that have the same wording as the TSI are written across the whole width of the page, the texts of the UTP that differ from the TSI are written in the left-hand column and the corresponding text of the TSI is shown in the right-hand column for information.

### **Article 8a**

#### **Deficiencies in UTP**

This is a new Article. § 1 deals with the approach the CTE must take if it discovers that a UTP that has already been adopted contains errors or other deficiencies, particularly if the source of the discovery is those who are obliged to notify the Secretary General in accordance with § 2. From the main example given (contradiction with or insufficient provisions concerning the essential requirements) and any measures to be taken (amendment to the UTP and transitional solution), it ensues that the only deficiencies concerned are those for which an impact on the material content of the provision cannot be ruled out *a priori*.

### **Article 9 \***

#### **Declarations**

1. According to Article 33 §§ 2 and 4 (f) of the Convention, only the General Assembly could decide on an amendment to this Article, not the Revision Committee.
2. § 1 states that declarations of non-application may be made not only against an adopted UTP but also against a validated technical standard. According to Article 5 § 4 the application of validated technical standards is in principle voluntary but a standard or a part of it may be made obligatory through provisions in a UTP. §1 is in this regard therefore to be understood as offering the possibility to make a declaration of non-application against a validated technical standard or part of it which has been made obligatory through provisions in a UTP.

**Article 10 \***  
**Abrogation of Technical Unity**

1. According to Article 33 §§ 2 and 4 (f) of the Convention, only the General Assembly could decide on an amendment to this Article, not the Revision Committee.
2. In this Article which has been editorially adapted as consequence of changes in other Articles<sup>1</sup> it is stated that the entry into force of the UTP, adopted by the CTE in accordance with Article 6 § 1, in all the States parties<sup>2</sup> to the 1938 version of the International Convention on the Technical Unity of Railways (Technical Unity 1938), shall abrogate that convention. However it does not seem that the wording of this provision gives an exact answer to the question if and when the abrogation of that Convention would take effect. It has been assumed that this would be the case when all relevant UTP and validated standards covering the provisions of the Technical Unity 1938 are in force. But it is unlikely that a common interpretation among the Member States of OTIF and the States parties to the Technical Unit 1938 can easily be achieved. Taking account in particular of States where the abrogation of the Technical Unity 1938 would concern their national legislation any interpretation on the validity of the Technical Unity 1938 or of parts of it needs to remain the prerogative of its States parties.

**Article 11 \***  
**Precedence of the UTP**

1. According to Article 33 §§ 2 and 4 (f) of the Convention, only the General Assembly could decide on an amendment to these Articles, not the Revision Committee.
2. This Article which has been editorially adapted as consequence of changes in other Articles<sup>3</sup> contains rules of precedence over the provisions of the Technical Unity 1938 as well as of RIC and RIV. As to the provisions of the .Technical Unity 1938, see remarks to Article 10.
3. § 2 which refers to RIC and RIV as applicable before 2000 is to be understood as that the APTU and UTP shall also take precedence over agreements replacing RIC and RIV; e.g. as of 01.07.2006 parts of RIV has been replaced by the General Contract of Use (GCU).

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<sup>1</sup> see b) of the NOTE under the heading “Explanatory Report”

<sup>2</sup> Belgium, Bulgaria, Czechoslovakia, Denmark, France, Germany, Greece, Hungary, Italy, Luxembourg, Netherlands, Norway, Poland, Romania, Sweden, Switzerland, Turkey, Yugoslavia.

<sup>3</sup> see b) of the NOTE under the heading “Explanatory Report”

## **Article 12**

### **National technical requirements**

1. This is a new Article.
2. When the new version of the APTU Appendix adopted in 2009 enters into force, the Contracting States shall ensure that the Secretary General is informed of all their applicable national technical requirements. In order to avoid that EC Member States would have to notify the same rule twice (once to the European Commission, once to the Secretary General), the European Commission will make sure that the Secretary General has access to the data base being set up by DG TREN and the European Railway Agency (ERA). In that case, for the Contracting States which are also members of the European Community, the data base shall at the deadline indicated in § 1 second sentence contain the information on the National technical requirements as required by this article and the presence or non-presence in the EC data base is considered to be legal proof in relation to this Article. National technical requirements that are covered by a UTP that has entered into force expire automatically, unless the Secretary General receives notification beforehand, with justification, of the need to maintain the national requirements in question.
3. In § 1 the term “analogous” means that the requirement concerns the same objective, not necessarily prescribes the same solution, e.g. the visibility of a vehicle.

## **Article 13**

### **Equivalence table**

1. This is a new Article.
2. The equivalence table provides a new way of compiling cross-references between national requirements, UTP and TSI and ultimately of making easier the cross acceptance of vehicles built and approved according to different standards. The CTE can take decisions on equivalence between
  - national technical requirements of various Contracting States,
  - UTP and TSI and
  - UTP and national requirements.
3. Equivalence must be indicated in the published reference (equivalence) document.

**ANNEX****Parameters to be checked in conjunction with the technical admission of non-UTP conform vehicles and classification of the national technical requirements**

This Annex corresponds to Annex VII of Directive 2008/57/EC as amended by Directive 2009/131/EC. Group A is expanded to include national rules equivalent to provisions in UTP (as in Article 13).