



Organisation intergouvernementale pour les transports internationaux ferroviaires

Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr

Intergovernmental Organisation for International Carriage by Rail

WG TECH

39th Session

Provisional Minutes

[Comments received from: DE, European Commission, ERA](#)

Brussels, 19-20.11.2019

WG TECH 39 SUMMARY

1. **The agenda submitted in document TECH-19026 dated 19.9.2019 was adopted.**
2. **The Secretariat presented the latest developments in OTIF.**
3. **Switzerland, in the shape of Mr Christophe Le Borgne, was elected to chair the session.**
4. **The minutes of the 38th session of WG TECH were approved.**
5. **Discussion and draft proposals for modification:**
 - a. Draft revised UTP NOI (TECH-19013, version 2, dated 22.10.2019)
 - A template for the notification of quieter routes should be included. The line and the first and last point of the quieter route on the line should be identified. This would allow the SG to publish the information in a harmonised way;
 - Switzerland requested a particular implementing rule designating the whole network as a quieter route directly upon entry into force of the UTP. The European Commission [and the Agency](#) ~~were~~as not in favour and ~~announced that~~ Switzerland and the European Commission [announced that they](#) would bilaterally try to find a solution. [The Secretariat requested to be before the end of 2019 and informed the OTIF Secretariat accordingly before the end of 2019 to facilitate the submission to CTE 13 for adoption;](#)
 - The draft revised UTP NOI would be submitted to CTE 13 for adoption.
 - b. Draft revised UTP Freight wagons (TECH-19014, version 2, dated 22.10.2019)
 - Appendix C was supplemented with a value for the maximum cant deficiency for GE wagons. ~~The A proposal for amending~~ WAG TSI would be ~~amended-made~~ accordingly;
 - ERA would send the OTIF Secretariat editorial modifications for the UTP;
 - Chapter 4.9 should be clear in that RUs bear full responsibility for route compatibility checks. The procedure for these checks should be in accordance with the future UTP on route compatibility, and in the absence of this, in accordance with procedures defined at national level;
 - Following the EU's RISC meeting of February 2020, ERA and the European Commission would inform the OTIF Secretariat of any changes to the technical opinions referred to in points 6.1.2.3 and 6.1.2.4;
 - The draft revised UTP WAG would be submitted to CTE 13 for adoption with the modifications provided by RS.
 - c. Draft revised UTP Marking (TECH-19017, version 2, dated 22.10.2019)
 - The draft revised UTP Marking would be submitted to CTE 13 for adoption.
 - e. Draft revised ECM certification rules (TECH-19018, version 2, dated 22.10.2019)
 - WG TECH supported the introduction of footnotes to clarify the provisions and agreed on minor modifications to them;
 - The draft revised ECM Regulation would be submitted to CTE 13 for adoption.
 - f. Draft revised Vehicle Register Specification (TECH-19020, version 2, dated 22.10.2019)
 - The text should be modified before being proposed to the CTE;
 - The existence of the EVR should be noted in the preamble without placing any obligation on the EU in relation to the establishment of EVR. As a consequence, the main text should not ~~refer~~ [impose obligations on ERA](#) to [build](#) a central register;
 - [The Secretariat suggested that](#) ~~Non~~-EU states wishing to use the EVR would have to agree bilaterally on terms and conditions with the EU (or ERA);
 - The OTIF Secretariat would draft a new version of the document and share it by the end of November with delegates who volunteered to review the new draft, which were the European Commission, CER, United Kingdom and Switzerland. The OTIF Secretariat should receive feedback on time so that it can finalise a draft by the end of 2019, which could be submitted to CTE 13 for adoption;

- d. Draft revised Rules of Procedure for the CTE (TECH-19015, version 2, dated 7.8.2019)
- The draft revised Rules of Procedure for the CTE would be submitted to CTE 13 and, if adopted, would already apply directly at that session.

6. Items for discussion

- a. Future provisions concerning route compatibility checks
- The Secretariat proposed to develop a UTP for route compatibility checks. It would draw on provisions related to train composition under the TSI OPE and the RINF;
 - A draft would be prepared for WG TECH 40.
- b. Mutual recognition of ECM certificates
- There was no consensus on the 2nd version of the document prepared by the United Kingdom, particularly where it concerned intra-EU international traffic. The United Kingdom considered reverting to the first version of the paper. It was agreed that the Working Group of Legal Experts would be requested to examine the subject further and present its views.

7. Developments in EU regulations that are of relevance to COTIF (presented by ERA and ~~DG MOVE~~[the European Commission](#)):

- ~~DG MOVE~~[The European Commission](#) presented the latest developments of relevance to COTIF, i.e.:
 - o modifications to relevant TSIs to regulate the extension of the area of use of existing (pre-TSI) vehicles,
 - o developments regarding National Technical Rules at EU level, and
 - o long term project to revise the process for modifying TSIs.

8. The cross reference table of EU and OTIF terminology was reviewed.

9. The EU-OTIF equivalence table was updated and reviewed.

10. Any other business:

The ECM certification process, a case in Switzerland

Switzerland informed WG TECH that when investigating two separate accidents, it had observed that the vehicles involved had not been properly maintained. In both cases, the ECM of the vehicles was certified by a commercial ECM certification body. Switzerland wondered whether the concept of ECM certification for profit was compatible with the avoidance of conflicts of interest, and if not, whether ECM certification should be defined as a task of Governments, rather than commercially operating certification bodies. It asked for the views of other states.

11. Next meeting: Bern, 17 and 18 June 2020.

DISCUSSION

Welcome by the OTIF Secretariat

Mrs Alice Polo, the representative of the European Commission, warmly welcomed the delegates at the DG MOVE premises and wished all the participants success with the meeting.

Mr Bas Leermakers (head of OTIF's technical interoperability department) [who was, together with Mr Dragan Nešić representing the OTIF Secretariat \(further referred to as the Secretariat\)](#) welcomed all the participants ([List of participants Annex I](#)) and opened the 39th session of WG TECH in Brussels. He thanked ~~DG MOVE~~ [the European Commission](#) for hosting the meeting. The Secretariat received apologies from GR and UNIFE, as both had had to cancel their attendance at the last minute.

1. APPROVAL OF THE AGENDA

WG TECH adopted the agenda for the 39th session as proposed in the invitation letter TECH-19026, dated 19 September 2019 ([Annex II](#)).

2. GENERAL INFORMATION FROM THE OTIF SECRETARIAT

The **Secretariat** presented developments since the 38th WG TECH (see also presentation).

With regard to the status of the vote by written procedure, the Secretariat informed the meeting that the Secretary General had so far (by 18 November) received 29 valid votes. The deadline for voting would expire on 30 November 2019 and by the end of 2019 the results would be notified to the members of the CTE.

3. ELECTION OF CHAIR

The **Secretariat** ~~nominated~~ [informed that](#) Switzerland, in the shape of Mr Christophe Le Borgne, [had expressed its interest to](#) ~~as~~ chair of the WG TECH 39 meeting. There were no additional proposals. ~~Mr Le Borgne accepted the nomination and~~ WG TECH unanimously elected Mr Christophe Le Borgne to chair this session.

The **Chair** thanked WG TECH for the trust it had placed in him. He reminded the meeting that all proposals under item 5 should be subject to final review by this WG TECH, so that they could be voted on at CTE 13 in June 2020.

4. APPROVAL OF THE MINUTES OF THE 38TH SESSION OF WG TECH

Document: [WG TECH 38 PVM](#) Provisional Minutes of the 38th session

The **Secretariat** informed the meeting that the provisional minutes were sent to the delegates who attended the 38th Session of the WG TECH on 10 October 2019. Comments were received from Switzerland and the European Union Agency for Railways (ERA). The Secretariat uploaded an updated version of the provisional minutes with the comments received before 24 October 2019.

The **Chair** concluded that if there were no further comments at the meeting, the minutes of the 38th session of WG TECH, as amended according to comments received before the meeting, were approved.

5. DISCUSSION AND DRAFT PROPOSALS FOR MODIFICATION

a. Draft revised UTP NOI

Documents: [TECH-19013-v2](#)

Draft for discussion (version 2, dated 22.10.2019)

The **Secretariat** informed the meeting that following the discussion at WG TECH 38, it had modified draft working document TECH-19013. The draft text included the modifications in track changes compared to the previous version:

- Editorial modifications (Sections: 0, 4.4, 6, 7.1, 7.2.2, 7.4.2 and Appendix D);
- Introduction of the particular implementation rules for Switzerland (section 7.4.1);
- Deletion of specific data format linked to RINF at EU level (Appendix D).

The meeting discussed the following subjects in more detail:

The list of quieter routes

CER was of the view that the list of quieter routes should be identified and made public as soon as possible or well in advance and within a given time period.

RS suggested that publishing the list of quieter routes, as prescribed in appendix D, should be a permanent task of the OTIF Secretariat. In its view, the list of quieter routes should be published, even if all lines open to international traffic are quieter routes in a Contracting State (CS).

The **Secretariat** pointed out that it could only publish the list of quieter routes after it had been notified by the CS. The Secretariat agreed that if all lines open to international traffic are quieter routes in a particular state, this should be published on the website of OTIF as well.

ERA showed the meeting an example of a notified list of quieter routes provided by Hungary according to EU rules.

Particular implementation rules for Switzerland

As agreed in WG TECH 38, Switzerland provided wording under particular implementing rules, which the OTIF Secretariat introduced in section 7.4.1. Switzerland had designated its whole network as a quieter route directly upon entry into force of the UTP.

ERA pointed out that proposed implementation rules for Switzerland would ~~affect~~ [have an immediate and very negative impact on EU traffic. CH has been a very active participant in the Task Force, Working Party and RISC meetings for the drafting of the TSI Noise and they are aware of this.](#)

~~The representative of t~~ **The European Commission** pointed out that the alignment between the TSIs and UTPs also included alignment of the implementation dates. The European Commission was of the view that Switzerland's implementation of quieter routes should follow the principles agreed during the TSI drafting process.

The **Secretariat** reminded the meeting that all the legal documents to be voted on at the CTE 13 should be finalised and ready for translation by the end of 2019. It therefore suggested that if Switzerland and the European Commission were to find a solution bilaterally, they could inform the OTIF Secretariat accordingly.

The Chair summarised the discussion and concluded this item as follows:

- A template for the notification of quieter routes should be included. The line and the first and last point of the quieter route on the line should be identified. This would allow the SG to publish the information in a harmonised way;
- Switzerland requested a particular implementing rule designating the whole network as a quieter route directly upon entry into force of the UTP. The European Commission [and the Agency was were](#) not in favour and ~~announced that~~ Switzerland and the European Commission [announced that they](#) would bilaterally try to find a solution. ~~The OTIF Secretariat before the end of 2019~~

~~and requested to be informed accordingly before the end of 2019 to facilitate preparation of CTE 13 the OTIF Secretariat accordingly;~~

- The draft revised UTP NOI would be submitted to CTE 13 for adoption.

b. Draft revised UTP Freight wagons

Documents: [TECH-19014-v2](#)

Draft for discussion (version 2, dated 22.10.2019)

The **Secretariat** presented modified draft working document TECH-19014 version 2 UTP WAG. The main modifications were in track changes and were summarised as follows:

- Update of the procedure concerning the acceptance of ‘innovative solutions’ to better reflect the competences of the CTE and the Secretary General (Section 6.2.3);
- All transitional provisions related to ICs have been clarified and moved from chapter 0 to 5;
- All transitional provisions related to the subsystem are moved from chapter 0 to 7.1.1;
- Deletion of the remaining content of Appendix N;
- Editorial modifications (Sections: 0, 4.9, 5.1, 5.2, 5.3.5, 6.3 and 7.1.1).

The Secretariat also informed the meeting that after uploading the document, Switzerland, in coordination with ERA, had drafted text concerning cant deficiency rules for GE wagons. The text would be introduced as a new point 8a of Appendix C in the proposal for adoption by the CTE.

ERA added that the same proposed text concerning cant deficiency would be set out in a technical opinion, which should be ~~subject to a vote~~ [presented for endorsement](#) in the EU at RISC 87.

Editorial modifications to the WAG TSI

DE suggested that the editorial modifications to the TSI, planned to be discussed at the next RISC meeting in January, should be included in the UTP.

ERA would send these editorial modifications to the **Secretariat**.

Route Compatibility Checks

With regard to point 4.9, second paragraph, **GB** suggested indicating more clearly that RUs are in charge of the route compatibility checks and that there should be no obligation for Contracting States (CSs).

ERA reminded the meeting that ERATV, Appendix D1 of OPE TSI, RINF and the technical file are aligned ~~and that all of them provide the same information on basic characteristics of the wagons~~. In its point of view, the technical file of a vehicle should define all the vehicle parameters that are relevant in terms of checking the compatibility of a vehicle with a route.

CER agreed with **GB** and pointed out that the roles and responsibilities, together with the route compatibility assessment process, should be clarified further.

The **Secretariat** agreed with **GB** that RUs bear full responsibility for route compatibility checks. The Secretariat explained that it was drafting a UTP concerning route compatibility. It would include the parameters, procedures and responsibilities. This subject would be discussed in more detail under agenda item 6a. However, as the UTP on route compatibility would only become available later, in the absence of this UTP states may apply procedures at national level.

Technical Opinions provided by ERA as the EU Competent Authority

DE wondered whether ERA’s technical opinions referred to in points 6.1.2.3 and 6.1.2.4 should be included in the UTP, bearing in mind that at RISC 86, the EU MS had raised some concerns.

In its reply, **ERA** explained that once some parts of the technical opinions had been adapted, ~~they the~~ [European Commission](#) should ~~be subject to~~ [propose integrating the provision in the draft WAG TSI which would be submitted for a](#) vote in the EU at RISC 87.

The **Secretariat** suggested that although they were not yet finalised, the technical opinions should be included in the draft revised UTP WAG and submitted to CTE 13 for adoption. It invited ERA and the

European Commission to inform the Secretariat of any changes to the technical opinions. If this was done in good time, the Secretariat would incorporate the changes in the documents for CTE 13.

The **Chair** concluded this item as follows:

- Appendix C was supplemented with a value for the maximum cant deficiency for GE wagons. The WAG TSI would be amended accordingly;
- ERA would send the OTIF Secretariat editorial modifications for the UTP (post meeting note: ERA provided the OTIF Secretariat with these modifications on 21 November 2019);
- Chapter 4.9 should be clear in that RUs bear full responsibility for route compatibility checks. The procedure for these checks should be in accordance with the future UTP on route compatibility, and in the absence of this, in accordance with procedures defined at national level;
- Following the EU's RISC meeting of February 2020, ERA and the European Commission would inform the OTIF Secretariat of any changes to the technical opinions referred to in points 6.1.2.3 and 6.1.2.4;
- The draft revised UTP WAG would be submitted to CTE 13 for adoption.

c. Draft revised UTP Marking

Document: [TECH-19017-v2](#)

Draft for discussion (version 2, dated 22.10.2019)

The **Secretariat** presented the modified draft working document TECH-19017 version 2 UTP Marking. The Secretariat reminded the meeting that the UTP Marking did not have an equivalent single TSI at EU level, but ~~draw~~-based on provisions of the EU OPE TSI and EU NVR Decision. The draft in version 2 included editorial modifications (Sections: 0, 11 and 12) compared to version 1.

With regard to the clearer definition of categories 1 to 4 of rail/road machines in the table *Type and sub-type of special vehicles (digits 7-8)* on page 26, instead of ERA, **RS** offered to provide a proposal to be included in the UTP (post meeting note: on 26 November RS provided the OTIF Secretariat with its proposal).

The **Chair** concluded this item as follows:

- The draft revised UTP Marking would be submitted to CTE 13 for adoption with the modifications provided by RS.

e. Draft revised ECM certification rules

Document: [TECH-19018-v2](#)

Draft for discussion (version 2, dated 22.10.2019)

The **Secretariat** presented the modified draft working document TECH-19018 version 2 ECM regulation. The main modifications were in track changes and were summarised as follows:

- The subject matter and scope of the revised text (Article 1);
- The system of certification, in particular, for which kinds of ECM certification would be mandatory (Article 3, the introduction of footnotes);
- Transitional provisions (Article 15): clarification that the scope of previous ECM rules was limited to freight wagon ECMs and that ECMs that want to extend the scope of their certificate must be recertified;
- Editorial modifications (Introductory provisions, Articles: 6.1 and 11 and Annexes II and IV).

The **Secretariat** reminded the meeting that for many years, ATMF had required each vehicle to have an ECM assigned to it and that the ECM was responsible for the safe state of maintenance of vehicles. ECMs had this responsibility irrespective of whether or not they were certified. In 2012, ECM rules came in force which required all freight wagon ECMs to be certified. The future rules would require all ECMs to comply with the detailed provisions in Annex II. In most cases, compliance with Annex II must be checked by an ECM certification body. The compliance with Annex II of ECMs which are RUs maintaining their own

~~vehicles with Annex II~~ could ~~only~~ be checked in another manner (in the EU, this would be through safety certification) if particular conditions in Article 3 were met. In the Secretariat's view, RUs in non-EU ~~contracting~~ states should also have such alternatives, which were particularly important for state railway monopolies. In such cases, the procedure that the Competent Authority of the non-EU state follows should be defined at national level. WG TECH 38 asked the Secretariat to clarify, firstly the subject matter and scope of the revised text (Article 1), secondly, for which kinds of ECM certification would be mandatory (Article 3) and finally, the transitional provisions (Article 15). For this purpose, the Secretariat added footnotes to the draft text. The footnotes did not form part of the legal provisions and were intended to clarify the provisions.

DE, ERA and **RS** supported the introduction of the footnotes.

RS requested further clarification and modification of the footnotes. In its view, it should be ensured that safety certification in the EU and at national level in non-EU states should have equivalent results. The same should apply to the assessment of compliance with Annex II (*Requirements and assessment criteria for organisations applying for an ECM certificate*).

GB agreed with **RS** and suggested using the term “*equally robust procedure*”. It also offered to help the Secretariat improve the footnotes.

The ~~representative of the European Commission~~ agreed with **GB** and **RS** that safety certification in the EU and national process in non-EU states should provide the same level of assurance.

NB Rail pointed out that although issued by the competent authority (e.g. NSA), the safety certificate was not a replacement for ECM certification.

The **Secretariat** pointed out that safety certificates issued according to EU law did not necessarily have any legal status in states that did not apply EU law. Similarly, any checks, procedures, etc. applied outside the EU did not necessarily have a legal status in the EU. Nevertheless, application of the international law of COTIF required a certain level of mutual trust. Whether checks of compliance with Annex II were made according to EU law or according to national provisions in a non-EU state, trust was required in order to recognise the results on a mutual basis. Without such trust, the consequence would be that procedures and checks would have to be repeated in each state, which would contradict the Member States' obligation under COTIF to eliminate useless procedures. It supported the inclusion of text to indicate that the procedures of non-EU states should be equally robust.

ERA wondered whether some text, which appeared in two columns, could appear in full width instead. In particular, it made the following comments:

- Article 2 e), definition of safety critical component: suggestion to refer to “serious accident” as defined in the EU Safety Directive.
- Article 3 point 1: what did “which are used in international traffic on the basis of ATMF” mean?
- Article 4 point 6: why was there no obligation to record information in the Safety Alert IT? There was a risk that information might not be shared with the European Union, especially when a vehicle was operating in the European Union.
- Article 13: the concept of “registrar of ECM register” was unclear. Was it being suggested that ERA should no longer host the joint EU/OTIF ECM register?

In its reply, the **Secretariat** ~~explained~~expressed the view that ~~under in~~ COTIF, ~~it was not possible from the legal point of view to make~~ references to EU legal documents should be avoided and that assign competences to ERA should not be assigned competences of a central authority. ~~Further to this, ERA also asked/suggested the following:~~

~~With regard~~In response to ~~the~~ clarifications requested by ERA, the **Secretariat** ~~replied as follows~~suggested that:

- (With regard to Article 2 e), footnote 2 did already refer to “*serious accident as defined in Article 3(12) of the safety Directive*”.

- (Article 3.1), the scope of ATMF was international traffic. As the ECM Regulation is an Annex to ATMF, its scope was limited to that of ATMF.
- (Article 4.6), *the Safety Alert IT* and ‘*another informatics tool provided by the Agency*’ had been introduced in the European Union for the Single European Railway Area and were outside the scope of the COTIF. However, non-EU ECMs would be obliged to report safety relevant findings to the Competent Authority of their own state, which, in turn, could inform the CTE.
- (Article 13), the concept of *Registrar* was used to make a neutral reference to the entity managing the ECM register. ERA was currently the registrar of the ECM register and there was no suggestion to change this. Nevertheless, the CTE should be able to assign a new registrar if ERA were no longer be able or willing to carry out this task in future.

The **Chair** concluded this item as follows:

- WG TECH supported the introduction of footnotes to clarify the provisions and agreed on minor modifications to them;
- The draft revised ECM Regulation would be submitted to CTE 13 for adoption.

f. Draft revised Vehicle Register Specification

Document: [TECH-19020-v2](#)

Draft for discussion (version 2, dated 22.10.2019)

The **Secretariat** reminded the meeting that following the request of WG TECH 38, ~~it had prepared a complete new version of the draft revised vehicle register specification (TECH-19020, version 2) had been prepared.~~ The new version was summarised as follows:

- The text referred to the EVR as the Central Register and ERA as its Registrar. It would thus give the EVR a legal status and define tasks for ERA;
- States would have the option of using a central register (the EVR) or of establishing their own register;
- Each state would have the obligation to make vehicle data available to the relevant parties in accordance with Annex I on the data specifications;
- States and the Registrar (ERA) would be recommended to establish connections between registers on a bilateral basis;
- CS which were also members of the EU would *not be subject* to the specifications as they would be obliged, under EU law, to use the EVR;
- When adopted, the new specifications would repeal and replace the current OTIF NVR Specification.

The Secretariat also informed the meeting that it had received comments from the EC only a few days before the meeting.

The ~~representative of the EC~~ [European Commission](#) ~~said expected~~ that the [European EC Union](#) would not support the new text. It was of the view that no obligations ~~for ERA~~ should be ~~defined assigned specifically to ERA~~ in COTIF ~~as it was pointed out by OTIF Secretariat under the previous point. If the EU offered to non-EU contracting states the possibility to use the European central register, it should be reflected under the recitals.~~ It reiterated the advantages of the centralised register ~~from an economical and technical point of view, regretted the absence of thorough economic analysis~~ and pointed out that ~~the objective should be to avoid multiple registrations should be avoided.~~

The **Secretariat** considered version 2 a compromise that could avoid multiple registrations of vehicles. In accordance with the principle that the functioning of ATMF for all parties should not exclusively rely on tools provided and controlled by one of the parties, it was of the view that non-EU OTIF CS could not be legally required under COTIF to use the EU register (EVR). If states wanted to use the EVR register, this would be a matter between that state, EU and ERA. COTIF should remain neutral international law, which can be implemented at national level by each state.

NB Rail supported the draft text. It said that the states should provide vehicle data in accordance with Annex 1. With regard to the search engine, if not provided by ERA, this service might be developed at sector level.

Taking into account the issues raised by the EC, the **Secretariat** proposed to draft a new version of the document. The concept of ‘central register’ (EVR) would be deleted, including the provisions relating to its registrar (ERA). The remaining text would be limited to the obligation of each state to register vehicles in the format according to the Annex and provide access to the register. Using the EVR would be one way to comply, but states would also be able to use another register. The provisions concerning suspensions and withdrawal of registrations, change of keeper, ECM or owner would be retained. A common search engine could then be discussed as a next step.

The ~~representative of the EC~~ **European Commission** ~~welcomed~~ noted the Secretariat’s proposal ~~However and informed that~~ a clear position on the draft would ~~only~~ be possible after ~~the EC had received~~ it would receive the new version.

CH supported the ~~Secretariat’s~~ proposal. It agreed that states could either ~~create a vehicle register by using~~ use the EVR or develop their own vehicle register, providing that the vehicle data saved in the register is accessible for other users.

With regard to a new version of the document, the **Secretariat** ~~reminded~~ informed the meeting that the draft should be finalised by the end of 2019, so it should only be sent to those delegates who could provide ~~the OTIF Secretariat with~~ feedback on time.

The **Chair** reminded the meeting of the importance of modifying the vehicle register specifications in such a way that would allow its application in all CS. He then concluded this item as follows:

- The text should be modified before being proposed to the CTE;
- The existence of the EVR should be noted in the preamble without placing any obligation on the EU in relation to the establishment of EVR. As a consequence, the main text should not refer to a central register;
- Non-EU states wishing to use the EVR would have to agree bilaterally on terms and conditions with the EU (or ERA);
- The OTIF Secretariat would draft a new version of the document and share it by the end of November with delegates who volunteered to review the new draft, which were the European Commission, CER, United Kingdom and Switzerland. The OTIF Secretariat would set a deadline for feedback so that it could finalise the draft by the end of 2019.

d. Draft revised Rules of Procedure for the CTE

Document: [TECH-19015-v2](#)

Draft for discussion (version 2, dated 22.10.2019)

The **Secretariat** presented the modified draft working document TECH-19015 version 2 Rules of Procedure for the CTE. The main modifications were in track changes and were summarised as follows:

- Make clearer that the EU can vote on behalf of its members, but that it does not have a vote itself (Article 4);
- The provisional agenda should indicate items dealing with legislative proposals (Articles 8 and 9);
- Editorial modifications (Articles: 4 and 6);
- Introduction of the term “Minutes”, instead of “Reports”, for both CTE and WG TECH (Article 24);
- The minutes of WG TECH could be more brief than the minutes of CTE. The WG TECH minutes should summarise the main items of discussion and list conclusions and actions placed upon the Secretary General or any participant.

It also explained that any statements that existed in writing could be added to the minutes of WG TECH as an annex, if need be. If requested, statements could be included in the minutes, as was common practice for previous meetings. Lastly, the Secretariat explained that CTE 13 would be organised under the new RoP and that after they had been signed by the Chair of CTE 13, they would come into effect immediately.

The **Chair** concluded this item as follows:

- The draft revised Rules of Procedure for the CTE would be submitted to CTE 13 and, if adopted, would already apply directly at that session.

6. ITEMS FOR DISCUSSION

a) Future provisions concerning route compatibility checks

The **Secretariat** introduced the subject and presented the context and background of the future provisions. Based on the request from WG TECH 38, the OTIF Secretariat had started drafting a UTP for vehicle route compatibility checks. It would contain a list of all relevant parameters to be checked by RUs and provisions concerning train preparation and pre-departure checks (currently set out in Appendix I to the UTP WAG and Appendix K to the UTP LOC&PAS). The UTP would be based on two EU Commission Implementing Regulations: OPE TSI (2019/773) and RINF (2019/777).

CER expressed concern that the list of parameters might become too complicated, as not all RUs have the capacity to carry out these checks. It pointed out that the parameters should be reliable and provided by IMs. State approval of the data would not be necessary.

GB welcomed the fact that responsibilities had been made clear. It wondered whether the parameters would be exhaustive, as some parameters in the EU turned out not to exist in practice.

NB Rail agreed with GB. It thought that as a provider of additional services for RUs, IMs might also be involved in several other stages during the route compatibility checks. It therefore suggested that the role of the IM should be further clarified.

The ~~representative of the EC~~ **European Commission** ~~said~~ stated that the list of parameters was presumed to be exhaustive. It confirmed that some parameters might be missing, but that there was a procedure that provides for modification of the list. It highlighted the importance of providing RUs with an accurate list of parameters.

The **Secretariat** pointed out that it was not currently planned to establish the RINF in COTIF. In principle, the list of route compatibility parameters should be exhaustive. It also pointed out that IMs should be *responsible* for providing the infrastructure data on one hand and RUs should *ensure* that vehicles were used on compatible infrastructure on the other. The Secretariat suggested that it might be useful to develop a guideline to facilitate application of the UTP concerning vehicle-route compatibility checks.

The **Chair** concluded this item as follows:

- The Secretariat proposed to develop a UTP for route compatibility checks. It would draw on provisions related to train composition under the TSI OPE and the RINF;
- A draft would be prepared for WG TECH 40.

b) Mutual recognition of ECM certification

Document: [TECH-19023-v2](#)

Draft for discussion (dated 19-20.11.2019)

The **Secretariat** informed the meeting that the document submitted by GB had been uploaded onto the Organisation's website on 25 October 2019, for discussion.

GB reminded the meeting that WG TECH 38 had reviewed a previous version of the document and that the argumentation in that version had not been challenged. However, WG TECH 38 asked that, in coordination with the OTIF Secretariat, GB develop the text in a form that could be submitted to the CTE 13 in June. Compared to the old version, chapter 6 had been modified and a new chapter 7 had been introduced.

The ~~representative of the EC~~ **European Commission** disagreed with points 6.2. (new) and 7.2 first sentence. It ~~considered~~ reminded that the subject-matter fell under EU competence and that traffic between EU states - so called *intra-EU international traffic* - was therefore covered by *the disconnection clause* of the Agreement between OTIF and the EU (Article 2), so that EU law and not COTIF would apply between

Contracting Parties, which are also Member States of the EU. ~~It was therefore of the view that there was no such thing as intra-EU international traffic; this was just EU traffic~~

The **Secretariat** ~~responded~~ stated that traffic between Contracting States, irrespective of whether these states are also EU members, was international traffic in the meaning of COTIF and COTIF applied to this kind of traffic, unless the disconnection clause provided otherwise. As an example, CIM would apply to such traffic if it was carrying freight, including between two EU Member States. In its view, the question was the extent to which the disconnection clause would give EU law precedence over COTIF for such traffic. The disconnection clause was without prejudice to the full application of COTIF in relations between EU and non-EU parties to the Convention. As a consequence, the Secretariat was of the view that the rights and obligations under COTIF between EU and non-EU states were unaffected by the disconnection clause. It only affected mutual relations between EU states. As a result, the mutual recognition of ECM certificates for international traffic between all 43 ATMF Contracting States, including those which were also members of the EU, should not be called into question.

The European Commission, expressed its disagreement with the rationale expressed by the Secretariat, and reminded that, while there is currently no EU law concerning the Contract of International Carriage of Goods by Rail (CIM), the certification of Entity in Charge of Maintenance (ECM) was fully regulated at EU level and fell therefore under the competence of the European Union. That was the reason why the disconnection clause applied for ECM certificates.

GB reminded the meeting that the existing ECM regime was the subject of the discussion, which was fully equivalent between EU law and COTIF. This mutual recognition of ECM certificates should not depend on where a vehicle was used or whether the certificate was issued in accordance with ATMF or with equivalent EU law.

The **Secretariat** added that the admission of a vehicle to international traffic and the mutual recognition of its ECM had to be valid before a vehicle would actually be used. Therefore, mutual acceptance of the ECM certificate and of the vehicle admission did not depend on where the vehicle would actually be used. An ECM certificate would either be valid or ~~invalid~~ not; it could not suddenly become invalid when a vehicle was used between two EU Member States.

The European Commission reminded that it did not question the validity of the certificate. The certificate remained valid for international traffic not affected by the disconnection clause.

~~Bearing in mind~~ Recognising that further interpretation of this ~~complex~~ legal matter went beyond the scope and competence of WG TECH and because incorrect interpretation of the rules might have major implications, the **Secretariat** suggested involving the OTIF Working Group of Legal Experts.

The ~~representative of the EC~~ European Commission was of the view that the document submitted by GB was useful, but that in its current form, it was not correct with regard to internal EU traffic. It agreed that the Working Group of Legal Experts ~~should~~ could be requested to examine the subject further and present its views.

GB was of the view that most of the document was ready, except for some parts questioned by the EC. Nevertheless, in order to facilitate the next steps, it suggested reverting to the first version of the document, to which no ~~objection~~ comments had been ~~raised~~ made.

The **Chair** concluded this item as follows:

- There was no consensus on the 2nd version of the document prepared by the United Kingdom, particularly where it concerned intra-EU international traffic. The United Kingdom considered reverting to the first version of the paper, to which no ~~objections~~ comments had been ~~raised~~ made at WG TECH 38. It was agreed that the Working Group of Legal Experts would be requested to examine the subject further and present its views.

7. DEVELOPMENTS IN EU REGULATIONS THAT ARE OF RELEVANCE TO COTIF (PRESENTED BY ERA AND DG MOVE)

The ~~representative of the EC~~ [European Commission](#) informed the meeting about the subjects of relevance to COTIF:

- Draft implementing act amending LOC&PAS and WAG TSI regarding provisions to regulate the extension of the area of use of existing vehicles, i.e. vehicles that had been already authorised under the “old” regime in accordance with the former Interoperability Directive (2008/57/EC) or earlier.
- Development regarding National Technical Rules at EU level, where the remaining NTRs complement TSIs.
- Long term project to revise the process for modifying TSIs, which, in its first step (by 2022), would include the revision of the TSIs concerning freight and digitalisation.

The **Chair** thanked the representative of the EC and noted the latest developments presented by the EC.

8. CROSS REFERENCE TABLE OF EU AND OTIF TERMINOLOGY

Document: [TECH-17049](#) Table of correspondence between COTIF and EU terminology

The **Secretariat** presented draft working document TECH-17049-WGT39-8 dated 25.10.2019. Compared to the version issued for WG TECH 38, there was only one editorial change concerning “Registration Entity” on page 14.

Delegates were informed that they are welcome to give the OTIF Secretariat feedback and recommendations for improvement, if necessary.

9. EU-OTIF EQUIVALENCE TABLE

Document: [TECH 18024](#) Equivalence table EU/OTIF regulations

The **Secretariat** presented draft working document TECH-18024-WGT39-9 dated 25.10.2019. Compared to the version issued for WG TECH 38, the changes included:

- Updated references to the EU documents (*UTP WAG pp.2, 4; UTP LOC&PAS pp.6, 7; UTP NOI p.10; UTP PRM p.11; UTP Marking pp.12, 13; UTP TAF p.22; ECM p.26*);
- Update of the references to the OTIF documents (*UTP GEN-B p.15; UTP TAF p.22*);
- Editorial amendments to facilitate the tracking of the data (*UTP WAG p.2; UTP LOC&PAS p.6; UTP NOI p.10; UTP GEN-B p.16*);
- Comments in the far right column of the table were updated (*UTP WAG p.4; UTP LOC&PAS p.7; UTP NOI p.9; UTP PRM p.11; UTP Marking pp.12, 13; UTP GEN-B p.16; UTP TAF p.22; NVR p.24; ECM p.26*).

WG TECH 39 noted the updated table. WG TECH members were invited to give the OTIF Secretariat feedback and recommendations for improvement, if necessary.

10. ANY OTHER BUSINESS

The ECM certification process, feedback from experience in Switzerland

Switzerland informed WG TECH that when investigating two separate freight wagon accidents, it had observed that the vehicles involved had not been properly maintained. In both cases, the ECM of the vehicles had been certified by a commercial ECM certification body. Switzerland wondered whether the concept of ECM certification for profit was compatible with the avoidance of conflicts of interest, and if

not, whether ECM certification should be defined as a task of government authorities, rather than commercially operating certification bodies. It asked for the views and experience of other states.

NB Rail was of the view that the accreditation body, which certified the ECM certification body in question, should be involved and react. If it did not have the necessary experience or knowledge, it could ask the accreditation body of another state for assistance. NB Rail thought that the performance of maintenance in workshops was the responsibility of the ECM as well. If the certification of workshops were mandatory, the ECM certification bodies should comply with a certification scheme. It suggested that this subject should be discussed further in the meeting on the cooperation of certification bodies (CCB) organised by ERA, in which five certification bodies from the non-EU OTIF CS also take part in (BA, CH, MN, RS and TR).

The ~~representative of the EC~~ [European Commission](#) was of the view that the ECMs must comply with all the requirements. In so doing, all the workshops would then be checked to ascertain whether or not they comply with the requirements. It thought that Art. 7 and 9 of Annex A to ATMF (Regulation 445/2011) provided sufficient tools to deal with this.

~~DE thought that the competent authority (i.e. NSA in the EU) should be responsible for the recognition of ECM certification bodies.~~ [informs that in Germany, NSA DE currently acts as ECM certification body. It is planned that NSA DE will be responsible for recognising ECM certification bodies in future.](#)

GB was of the view that when the competent authority acts as an ECM certification body, it must be ensured that this task remains independent from its other functions.

The **Chair** thanked the participants for the productive discussion.

11. NEXT SESSIONS

The 13th session of the Committee of Technical Experts will be held on 16 and 17 June 2020 in Bern.

The 40th session of WG TECH will be held on 17 and 18 June 2020 in Bern (consecutively with CTE).

The 41st session of WG TECH will be held on 9 and 10 September 2020 in Bern (following JCGE on 8 and 9 September).

CLOSING REMARKS:

The **Chair** thanked all the participants for the productive discussion, the OTIF Secretariat for preparing all the documents on time, the European Commission for hosting the meeting and closed the 39th WG TECH meeting.

List of participants**Annex I****I. Gouvernements / Regierungen / Governments****Allemagne/Deutschland/Germany**

M./Hr./Mr. Fabian **Heinrich** Referent für internationale Angelegenheiten
Eisenbahn-Bundesamt

Grèce/Griechenland/Greece

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

Italie/Italien/Italy

M./Hr./Mr. Rocco **Cammarata** Head of Technical Standards of Vehicles Office
Agenzia Nazionale per la Sicurezza delle Ferrovie

**Macédoine du Nord/Nordmazedonien/
North Macedonia**

M./Hr./Mr. Dejan **Bogoeski** Director of the National Safety Authority in the
Railway System
Ministry of Transport and Communications

**Royaume-Uni/Vereinigtes Königreich/
United Kingdom**

M./Hr./Mr. Vaibhav **Puri** Head of Technical & Regulatory Policy
Rail Safety and Standards Board (RSSB)

M./Hr./Mr. Peter **Coverdale** Policy Advisor
Department for Transport

Serbie/Serbien/Serbia

M./Hr./Mr. Miloš **Stanojević** Associate
Department for Railways and Intermodal Transport
Ministry of Construction, Transport and Infrastructure

M./Hr./Mr. Milan **Popović** Head of Department for Safety and Interoperability
Directorate for Railways

Suisse/Schweiz/Switzerland

M./Hr./Mr. Christophe **Le Borgne** Chef de projet Interopérabilité et Sécurité
Office fédéral des transports (OFT)

**II. Organisation régionale d'intégration économique
Regionale Organisation für wirtschaftliche Integration
Regional economic integration organisation**

Union européenne / Europäische Union / European Union

**Commission européenne/
Europäische Kommission/
European Commission**

Mme/Fr/Ms. Alice Polo	Policy Officer - Rail Safety and Interoperability Unit Directorate-General for Mobility and Transport
M./Hr./Mr. Jonathan Colé	Policy Officer - Single European Area Directorate- General for Mobility and Transport
M./Hr./Mr. Laurent Pratt (Agenda item 6b only)	Legal & Policy Officer Directorate-General for Mobility and Transport
M./Hr./Mr. Alejandro Martinez Godin (Agenda item 6b only)	Legal Unit Directorate-General for Mobility and Transport

European Union Agency for Railways (ERA)

M./Hr./Mr. Christoph Kaupat	Project Officer – Networks, International and IMS UNIT
M./Hr./Mr. Oscar Martos	Project Officer, Expert

**III. Organisations et associations internationales non-gouvernementales
Nichtstaatliche internationale Organisationen und Verbände
International non-governmental Organisations and Associations**

CER

M./Hr./Mr. Enno Wiebe	Advisor ERA and Research-related Issues Community of European and Infrastructure Companies (CER) AISBL
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NB-Rail

M./Hr./Mr. Francis Parmentier	General Manager NB-Rail
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UIC

M./Hr./Mr. Jozef Fázik	Chargé de mission, Echange des véhicules ferroviaires Union internationale des chemins de fer (UIC)
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UNIFE

S'est excuse.
Hat sich entschuldigt.

Sent apologies.

**IV. Secrétariat
 Sekretariat
 Secretariat**

| M./Hr./Mr. Bas **Leermakers**

Head of [Technical Interoperability](#) Department

| M./Hr./Mr. Dragan **Nešić**

Expert, [Technical Interoperability Department](#)

Approved Agenda**Annex II**

1. Approval of the agenda
2. General information from the OTIF Secretariat
3. Election of chair
4. Approval of the minutes of the 38th session of WG TECH
5. Preparation of documents for the Committee of Technical Experts:
 - a) Draft revised UTP Noise
 - b) Draft revised UTP Freight wagons
 - c) Draft revised UTP Marking
 - d) Draft revised Vehicle Register specifications
 - e) Draft revised ECM certification rules
 - f) Draft revised Rules of Procedure for the Committee of Technical Experts
6. Items for discussion
 - a) Future provisions concerning route compatibility checks
 - b) Mutual recognition of ECM certificates
7. Developments in EU regulations that are of relevance to COTIF (presented by DG MOVE and ERA)
8. Cross reference table of EU and OTIF terminology
9. EU-OTIF equivalence table
10. Any other business
11. Next session

