

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

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

**Commission d'experts techniques
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Item 5

Explanatory report of the re-activated „Schweinsberg“ group

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1. Background

During autumn 2004 it was recognised that since the adoption of COTIF 1999 in Vilnius, significant work had been carried out by the European Community on developing a set of harmonised technical interoperability specifications and acceptance procedures for the European Community Member States (96/48/EC, 2001/16/EC, 2004/49/EC and 2004/50/EC). EC Member States discussed the difficulty of having to apply simultaneously EC legislation in the field of safety and interoperability and the ATMF/APTU Appendices of COTIF; these discussions were held in the Community in the context of the Committee set up under Article 21 of Directive 96/48/EC on the interoperability of the high-speed rail system. The Committee established the ground rules according to which the EC Member States would interact with the requirements of COTIF. The European Commission presented these rules to an OTIF meeting in October 2004 to which all OTIF Member States had been invited with a view to implementing the APTU and ATMF Appendices of COTIF 1999.

On the basis of the “new concept” presented by the OTIF Director General, it was recognised that OTIF, through its wider membership, provides a useful mechanism through which to continue and encourage further freight and passenger traffic growth between EC Member States and non-EC Member States of OTIF. As a result the meeting unanimously agreed to ensure compatibility between COTIF legislation and the European legislation, especially the “Interoperability Directives”, by reviewing and revising the APTU and ATMF Appendices. A Revision Group was set up and all OTIF Member States, the European Commission and the sector organisations were invited to participate.

At the OTIF General Assembly in November 2005 a representative from the EC presented the following principles which the General Assembly adopted:

- the EC/EEA Member States of OTIF are able to operate within the confines of their own borders in accordance with the European legislation only;
- railway vehicles and other railway material running from EC/EEA Member States may be admitted to circulation or use into international traffic in non-EC/EEA Member States of OTIF on the basis of the certification and approval given under European legislation;
- railway vehicles and other railway material running from non-EC/EEA Member States may be admitted to circulation or use into international traffic in the EC/EEA Member States on the basis of the certification and approval given under the COTIF 1999 system.

2. First Revision Group (2004-2006)

The objective of the First Revision Group was to modify the ATMF and APTU Appendices such that:

- it is sufficient for the EC Member States of OTIF to allow operation between the EC Member States in accordance with the European legislation alone;
- it is sufficient for railway vehicles and other railway material running from EC Member States to be admitted to circulation or use in international traffic in non-EC Member States of OTIF on the basis of the certification and approval given under European legislation and the assessments of the national requirements for the applicable networks (compatibility);

- railway vehicles and other railway material running from non-EC OTIF Member States
 - admitted to circulation at the COTIF “standard level” (equal to TSI) shall be admitted to circulation or use in the EC Member States on the basis of the certification given under the COTIF 1999 system and the assessments of the national requirements for the applicable networks, or if
 - admitted to circulation or use on the basis of a COTIF “variation” (see below) shall, on condition that certain requirements of the standard level, in particular concerning safety, are fulfilled, be admitted to circulation or use in the EC Member States on the basis of the certification given under the COTIF 1999 system, and the assessments of the national requirements for the applicable networks.

It was agreed that the Technical Specifications for Interoperability (TSIs) as provided for by the European interoperability legislation would be used as the ‘standard’ COTIF level of compatibility and that a “variation” was a defined set of provisions contained in an APTU Annex that allows a non EC Member State to apply a specification that has a different performance or RAMS (reliability, availability, maintainability, safety) level than that of a TSI.

In May 2006 the first Revision Group, chaired by Mr Schweinsberg (Eisenbahn Bundesamt in Bonn), presented:

- A new set of APTU rules that had been modified mainly to align the APTU Annexes with the existing and currently planned TSIs, to include the possibility of specific cases and variations, and to add rules clarifying the relationship between national technical requirements and the APTU Annexes.
- A new set of ATMF rules that had been modified in such a way as to ensure equivalence between the various output stages of the European interoperability directives and COTIF 1999.

The diagram in Annex 1 shows the two procedures for the placing into service of rolling stock in parallel. To the left of the vertical line the procedure prescribed by the EC legislation is shown and to the right that of the appropriately modified ATMF.

The EC “authorisation for placing in service” corresponds to COTIF’s “admission to operation”, whilst the “certificate of conformity” produced by a European “Notified Body” (NoBo) corresponds to a “declaration” delivered by a “suitable body” in the COTIF system.

It is therefore an important provision of the revised Appendices that these documents shall be mutually recognised. The verification carried out will have been produced in accordance with the same technical rules (given that APTU Annex=TSI) and the verification will be carried out by bodies appointed in accordance with equivalent and clear criteria concerning their competence and independence.

Other ATMF modifications were proposed in order to benefit from discussions of the EC Member States in the field of safety and interoperability that resulted in EC Directives 2004/49/EC (Safety Directive) and 2004/50/EC (revised Interoperability Directive). These modifications concern mainly:

- the procedure for obtaining an “admission to operate”
- the role of the Committee of Technical Experts

- the content of the “operation certificate” and the “conformity certificate”
- the rolling stock register
- the role of the keeper and the maintenance process
- the accident/incident investigation process
- the transitional arrangements (for existing vehicles).

A major constraint has been that it must be possible for OTIF's Revision Committee to adopt the proposed amendments to the Appendices and the amendments must not concern those Articles which, according to the Convention, can only be amended by the OTIF General Assembly, with a subsequent round of ratifications; in other words, it was necessary to avoid another potential 7 years wait until all the amendments were ratified and could enter into force.

3. Second Revision Group (2008)

The draft revised versions of ATMF and APTU (REV7) were submitted to the Committee of Technical Experts at its first session in July 2006. The Committee of Technical Experts asked the European Community for its official position on the proposals. At the second session of the Committee of Technical Experts in June 2007, the EC Member States submitted a common Community position with a number of important comments, mainly that the ATMF/APTU Appendices needed further revision in order to simplify them (the concept of variations overlapped with other possibilities, such as specific cases and derogations) and to take account of recent EC plans for changing its regulations, for example, in the field of cross-acceptance and introduction of entities in charge of vehicle maintenance.

In addition to the technical working group WG TECH which had started its work after the 1st session of CTE, the second session of the CTE established another working group, WG LEGAL, to discuss the legal aspects of the amendments to the technical Appendices F and G.

WG LEGAL started its work by discussing the Secretariat's proposal on Article 3a and the link between the Interoperability regime and the ATMF and APTU Appendices. The Secretariat submitted a proposal (new version of Article 3a) to include in ATMF the specific right for the EC Member States to apply Community law to vehicles which may only be used between the EC Member States. Another issue was the format of the APTU Annexes; would a simple reference to the TSIs be acceptable? WG LEGAL concluded that this would not be acceptable and adopted instead the proposal from the Secretariat with the two column format; identical/equivalent provisions are shown across the whole page width (both columns), whereas specific COTIF regulations are shown in the left-hand column, with the corresponding EC regulations (TSI and/or other) shown in the right-hand column. Both regulations can therefore be read in one document.

In order to avoid going into all the details of the revision of APTU and ATMF, the 2nd meeting of WG LEGAL concluded that the first Revision Group, still under the chairmanship of Mr Schweinsberg, should be reactivated and asked to analyse the need for further amendments to Appendices F and G that might be required as a result of developments in the EC regulations. The Revision Group should be asked to draft the necessary amendments by updating the version that had been prepared between 2004 and 2006.

A list of the representatives that have participated in the Revision Group can be found in Annex 2.

The main objective has been to align both Appendices with the principles of the new version of the EC Interoperability Directive (Directive 2008/57/EC) and after starting the work the

Revision Group also considered the draft revision of the EC Safety Directive (Directive 2004/49/EC) as far as maintenance of vehicles is concerned. The 2nd Revision Group has been very keen on ensuring the same cross-acceptance as in the EC, including between the non-EC OTIF Contracting States, and over the external borders of the EC, in both directions.

In June 2008, WG LEGAL decided to abandon the “variations” introduced in the proposals from the first Revision Group and to replace them by the possibility of achieving the same objective by using specific cases (expanded to more than one State) or alternative target systems to be included in the Uniform Technical Prescriptions according to APTU and by considering the possibility of derogations. In addition to technical reasons economic reasons are also to be accepted as justification for a Member State’s asking for such a solution.

The intention is that the updated proposals will be submitted to the 3rd session of the Committee of Technical Experts in February 2009 (originally scheduled for October 2008) for comments and subsequently to the OTIF Revision Committee for adoption, with an expected date of entry into force twelve months later.

4. The main proposed amendments to the regulations in force

a. ATMF

The main changes to the ATMF Appendix in force at present concern the following:

- Article 19 - a new provision ensuring grandfather rights for vehicles already approved for international traffic (RIV, RIC, bi- or multilateral agreements)
- Article 3a - new provisions regarding vehicles placed in service according to European Community law and the rights of free operation between the OTIF Contracting States (that apply APTU/ATMF), including those which are EC Member States
- Article 5 - new provisions concerning the bodies that will be in charge of assessing the conformity of vehicles with the Uniform Technical Prescriptions (UTP), making it possible for a non-EC Member States to nominate “Notified Bodies”
- Article 6 - new provisions concerning the conditions to be met for a Technical Certificate (Operation as well as Type) valid in all OTIF Contracting States; cross-acceptance of national provisions as in the EC Interoperability Directive 2008/57/EC
- Article 6a – new provisions to prevent repeating of assessments and tests already carried out and mutual recognition of certificates, verifications and other documentation
- Article 7 – new provisions concerning the prescriptions applicable when a UTP is not available (mainly national requirements)
- Article 7a – amended provisions concerning for derogations possibilities
- Article 10 – a new provision concerning the Design Type Certificates
- Article 13 – new provisions concerning the data base to be set up by OTIF and national vehicle registers
- Article 15 – amendment concerning the new concept of entity in charge of vehicle maintenance; the Committee of Technical Experts to be competent to draft and

adopt rules concerning mandatory certification of keepers, entities in charge of maintenance (ECM) and maintenance workshops

b. APTU

The main changes to the APTU Appendix in force at present concern the following:

- Article 5 - new provisions concerning the validation of technical standards
- Article 7a – new provisions concerning the impact assessment before adoption of UTP
- Article 8 – new provisions concerning the content of the UTP
- Article 8a – new provisions concerning the procedure to be followed in the case of errors and deficiencies in an adopted UTP
- Article 10 – limitations of the validity of type admissions
- Article 12 – new provisions introducing “national technical requirements”
- Article 13 – new provisions concerning the “equivalence table”, which is a new tool to help establish cross-references between national requirements, UTP and TSIs and, ultimately, to facilitate mutual recognition of vehicles which have been built and approved to different standards
- Annexes – UTP will not be “annexed” to the APTU Appendix but published on the OTIF website as mandatory regulations. APTU will only have one annex: the list of parameters for the equivalence table.

5. Definitions (Article 2 APTU and Article 2 ATMF)

At the drafting stage, all the definitions are, in (English) alphabetical order to make the list easier to consult.

To avoid discrepancies, definitions found in both Appendices are included in ATMF Article 2. Article 2 of APTU only includes definitions of terms found in APTU only.

Annexes (2)