The European legal background for the safety of the rail freight transport including dangerous goods

Author: European Railway Agency
Table of contents

Introduction..................................................................................................................................................3

1. Development of the opening of the market for rail transport services .................4
1.2. Directive 95/18 respective 2001/13 .......................................................................................4
1.3. Directive 95/19 amended by 2001/14 ....................................................................................4
1.4. Second Rail Package..................................................................................................................4
1.5. Third Rail Package.....................................................................................................................4

2. Development of safety certification of railway undertakings and safety authorisation of infrastructure managers..........................................................6
2.1. Origins of safety certification in Europe.................................................................................6
2.2. Principles of Safety Certification/Authorisation .................................................................6

3. Development of the framework for circulation, exchange and maintenance of freight wagons ..............................................................................................8
3.1. Overview ...................................................................................................................................8
3.2. Multilateral agreements ........................................................................................................8
3.3. Relation between the multilateral agreements and the EU-legislation .......................9

4. Development of the responsibility for maintenance of freight wagons .............11
4.1. The regime of maintenance under multilateral agreements ...........................................11
4.2. The regime of maintenance under EU-legislation .................................................................11
4.3. Technical Specifications for Interoperability ..................................................................13
4.4. The regime of maintenance in the transition period .........................................................13

5. Rules on the transport of dangerous goods .................................................................14
5.1. Rules related to substance safety .......................................................................................14
5.2. Rules related to transport safety ......................................................................................14

6. Supervision and investigation ..........................................................................................16
6.1. National Safety Authorities ............................................................................................16
6.2. National Investigation Bodies ...........................................................................................16

7. European Commission/ERA Role .................................................................................17
7.1. National Safety Authorities ............................................................................................17
7.2. National Investigation Bodies ...........................................................................................17
Diagram on the interaction of the European bodies and the railway sector ............18

8. List of abbreviations.............................................................................................................19
Introduction

The transport of freight, including dangerous goods, is a key necessity in today’s industrial society. Rail transport is more environmentally friendly than road transport and may offer a competitive alternative to road on certain major segments of the market. While the high speed lines are primarily dedicated to passenger services, often the same infrastructure network is used for both freight and passenger services. This network (both the operators and the infrastructure itself) needs to be effectively managed and maintained. The Rail Safety Directive (2004/49 amended by 2008/110) provides the mechanism to ensure that safety is maintained and where reasonably practical, continuously improved. This is to be achieved in a co-ordinated and managed way with all the major players involved.

It should be noted that rail transport is safe and indeed very safe in comparison with road transport. Rail safety over the last 15 years has steadily improved, even with the opening of the rail transport market to competition and separation between infrastructure managers and railway undertakings. In fact, Recital 4 of the Directive acknowledges that:

“Safety levels in the Community rail system are generally high, in particular compared to the road transport. It is important that safety is at the very least maintained during the current restructuring phase, which will separate functions of previously integrated railway companies and move the railway sector further from self-regulation to public regulation.”

However, not all Member States are at the same level in relation to implementation. During this transitional period it is important that safety levels remain generally high. One of the main source of risks which require particular consideration during this period is the interface between operation and maintenance. This is very important one for the safety of the whole railway system

Before the opening up of the railway sector to competition the historical integrated railway companies acting as national monopolies were responsible for the whole set of rail activities, including regulation, operation and maintenance. In the opening of the freight market there has been a huge development within the last 15 years: a number of new railway undertakings, private wagon keepers and maintenance workshops came onto the market as well as existing ones being taken over by other companies.

Furthermore the interfaces and responsibilities between the historical integrated railway companies were regulated in bi- or multilateral agreements between the (state-owned) railway companies, e.g. by the Regolamento Internazionale Veicoli (RIV). Such agreements have been replaced step-by-step by EU-legislation. It will take time before the EU-legislation is implemented into national legislation of the Member States. During this transitional period, moving away from a system based primarily on contractual arrangements to one based on public law, it is important that:

- Everyone understands their roles and responsibilities and have systems in place to manage these;
- There is full transparency and openness in the processes and systems used; and
- Everyone is treated equally and no unnecessary safety barriers are introduced.
1. Development of the opening of the market for rail transport services

Directives 91/440/EC, 95/18/EC and 95/19/EC were the beginning of the development of the open market. These were amended by 2001/12/EC, 2001/13/EC and 2001/14/EC. These were part of the first rail package.


Directive 91/440 laid down the first foundations for the creation of a European railway market. One of the key changes it brought was that railways must be managed along the same commercial lines as private companies, driven by market demands, and managed independently from the state. It also formally began the process of opening access to the rail market. This was amended by Directive 2001/12 which introduced a wider framework for competition between railway companies on the international freight market.

1.2. Directive 95/18 amended by 2001/13

Directive 95/18 established the basic concept of a rail license, valid throughout the Community. This required rail companies to demonstrate professionalism and adequate resources to operate train services. This was replaced by 2001/13 which defined further the conditions that companies must meet in order to be granted a license to operate freight services over the European rail network.

1.3. Directive 95/19 amended by 2001/14

Directive 95/19 introduced the concept of a capacity allocation body and obliged this body to allocate infrastructure on a non-discriminatory basis. This was completely replaced by 2001/14 which substantially extended the scope, particularly on transparency and openness of capacity allocation.

1.4. Second Rail Package

The Second Rail Package, adopted in 2004, was introduced in order to further open up both the national and international freight services (2004/51) on the entire European network. Other important aspects of the package were aimed at providing additional support to the opening up of the market via the introduction of requirements on interoperability (2004/50) and safety (2004/49). The Package also established the European Rail Agency (Regulation 881/2004) to develop the work on interoperability and safety set down in the Directives and thereby giving a stronger impetus to the delivery of EU transport policy objectives on harmonisation. The creation of the Agency represents a turning point in the previous system of national and railway company control of technical standards and safety.
1.5. Third Rail Package

The Third Rail Package, adopted in 2007, was aimed at opening up the market to international passenger traffic (2007/58) by amending Directives 91/440 and 2004/14. It also introduced a new Regulation (1371/2007) on rail passenger rights and obligations and Directive 2007/59 on the certification of train drivers operating locomotives and trains on the railway system in the Community. The latter Directive set out requirements for an EU accepted licence for train drivers and a process to ensure that they are competent to undertake the tasks.

2.1. Origins of safety certification in Europe

One of the key aspects of the safety certification philosophy has been to support the idea that safety does not hinder the economic competition. The first mention of the need for licence holders to satisfy legal requirements on safety was in Directives 95/18 and 95/19. This was further extended in Directive 2001/14, which set out limited requirements on safety certification. This was part of the first rail package and established the granting of safety certificates to Railway Undertakings (RUs) by Member States. They were, however, only valid in the Member State where they were issued and were limited to the RU ensuring that mobile staff had the necessary training and that rolling stock conformed to applicable rules.

The second rail package introduced a series of measures to help revitalise European railways. Whilst the first rail package had helped create the framework to open up competition, one of the key barriers to the improvement in the competitiveness of the railway sector was the varying approaches to railway safety management across the EU and the combination of different standards and characteristics of the rail system which could be seen as a ‘virtuous barrier’ to market development. The Directive 2004/49 (‘Rail Safety Directive’) had the goal of creating a common framework for the management of railway safety through the harmonisation and clarification of the various requirements, methodologies and responsibilities for safety. One of the main changes was the roles and responsibilities of the RU and IM. The Directive was clear in that the RU and IM must bear the full responsibility for the safety of the system; each for their own part in conjunction with the responsibility of manufacturers and maintenance suppliers and wagon keepers. The removal of state responsibility for the day to day operation of the railways was seen as a key way to help the opening of the market and to ensure that safety was not used as a barrier to market entry and revitalisation.

2.2. Principles of Safety Certification/Authorisation

Directive 2004/49 established amongst other things, the requirements for Common Safety Methods (CSM) as a means of providing tools for the assessment and monitoring of the safety level and the performance of RUs and IMs. This is the first time that IMs processes needed to be assessed in order to operate the infrastructure. Under previous legislation, the IM would often be given the task to certify the RU. Under 2004/49, both were given equal status thereby ensuring that both were responsible for the safety of the system, each for their own part. In taking this forward a key requirement is the development of a safety management system (SMS) which sets out the process of how a RU and IM manages and ensures the safe operation of its activities. The Directive mandates that, for international transport services, it should be enough to approve the SMS in one Member State and give the approval community validity.

The Directive also put in place the establishment of independent Safety Authorities to award safety certificates to IMs and safety authorisations to IMs and take forward the supervision of RUs/IMs SMS’s.
The development of the CSM on Conformity Assessment is a key process in the establishment of a harmonised certification/authorisation process. It provides clear assessment criteria for NSAs to use when awarding certificates to RUs and authorisations to IMs. It also mandates a framework for the supervision of RUs and IMs by NSAs following the award of the certificate/authorisation. The criteria are set at management system-level and allow the NSA to assess whether the RU/IM is capable of complying with the requirements to operate in general and on the specific network for which it is seeking certification/authorisation.

In relation to RUs it covers both passenger and freight operators and includes assessment criteria for the control of contractors and the supply of maintenance and material. This is important for RUs, particularly those who operate freight wagons, who do not themselves directly undertake the maintenance. In such cases their SMS should state how their procedures manage the verification and control of a contractor who undertakes maintenance on their behalf including clearly defining responsibilities and ensuring traceability of documents amongst the parties involved. In effect, RUs who operate a number of freight wagons from different Member States and keepers need to ensure that their processes adequately manage the responsibilities and risks, whether they themselves or others undertake the maintenance. It should be noted that whilst the European legislation can deliver a framework for managing and controlling risks, it is only effective if it is correctly implemented and applied at Member States level and by all the actors involved. That being said, it has been accepted at European level that in order to facilitate the implementation of safety certification in Directive 2004/49, the concept of ‘entity in charge of maintenance’ should be defined as well as the specification of the relationship between these entities and RUs. This was taken forward in Directive 2008/110.
3. Development of the framework for circulation, exchange and maintenance of freight wagons

3.1. Overview

The table below sets out the legal and contractual framework which has been in place both before and after July 2006.

<table>
<thead>
<tr>
<th></th>
<th>Before July 2006</th>
<th>After July 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal background</strong></td>
<td>- COTIF 1980</td>
<td>- COTIF 1999</td>
</tr>
<tr>
<td></td>
<td>- RIV</td>
<td>- CGU</td>
</tr>
<tr>
<td></td>
<td>- UIC 433 leaflet</td>
<td>- EU Directives 2008/57-2008-110</td>
</tr>
<tr>
<td></td>
<td>EU countries</td>
<td>Non EU countries</td>
</tr>
<tr>
<td><strong>Wagon authorisation for placing in service</strong></td>
<td>- RIV</td>
<td>- EU Directives</td>
</tr>
<tr>
<td><strong>Railway undertakings</strong></td>
<td></td>
<td>- TSIs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- National rules</td>
</tr>
<tr>
<td><strong>Wagon exchange</strong></td>
<td>- COTIF 1980</td>
<td>- EU Directives</td>
</tr>
<tr>
<td><strong>Railway undertakings</strong></td>
<td>- RIV</td>
<td>- CR OPE TSI</td>
</tr>
<tr>
<td></td>
<td>- Bi or multilateral agreements</td>
<td>- COTIF 1999</td>
</tr>
<tr>
<td></td>
<td>- UIC 433 leaflet</td>
<td>- GCU</td>
</tr>
<tr>
<td><strong>Wagon maintenance</strong></td>
<td>- RIV</td>
<td>- EU-Directives</td>
</tr>
<tr>
<td><strong>Railway undertakings and/or keepers</strong></td>
<td>- RIP</td>
<td>- Wagon TSI</td>
</tr>
<tr>
<td></td>
<td>- UIC 433 leaflet</td>
<td>- COTIF 1999</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- CUV</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- GCU (including the UIC 579-1)</td>
</tr>
</tbody>
</table>

The following paragraphs describe the development of the various multilateral agreements

3.2. Multilateral agreements

- The ‘International Wagon Regulations’ (Regolamento Internazionale Veicoli or Regolamento Internazionale dei Veicoli) or RIV about the international use of goods
wagons in Europe were first agreed between the European railways in 1922. The agreement was valid until the 1 July 2006, partially replaced by GCU. The purpose of the agreement between historical integrated railway companies on rules (technical, commercial and operational) was supporting international freight transport. It includes rules for the exchange of wagons when crossing borders.

- **COTIF (Convention relative aux transports internationaux ferroviaires)** is an intergovernmental Convention concerning international carriage by rail. It concerns the movement of passengers and goods by rail across national borders and the conditions under which that transit is undertaken. 43 States are currently signatory. These comprise most European countries, as well as a number in North Africa and the near East.

The principal aim of COTIF is to establish a uniform system of law in order to facilitate the continuing development of international rail traffic. It is about contractual arrangements rather than regulating for safety.

Appendix D of COTIF (Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic (CUV)) provides rules that apply to bi- or multilateral contracts for the use of railway vehicles used to carry passengers or freight on international journeys.

On entry into force of COTIF 1999, the former RIV (see above) ceased to apply and was partially replaced by a new private and voluntary agreement (GCU – see below) between RUs themselves respectively between RUs and wagon keepers.

In addition, wagon keepers were no longer obliged to register their vehicles with a railway undertaking.

- Following the adoption of COTIF 99 there was a concern by the industry that the optional scope of regulation in CUV led to the fear of multitude of bilateral contracts of use which would have been counterproductive for the pursued objective of opening the rail market. Therefore, UIP, UIC and ERFA developed, after several years of negotiations, a multilateral contractual framework by creating a uniform minimum standard: the **General Contract of Use (GCU)**. The GCU supplements CUV. The GCU became valid on the 1 July 2006. Until July 2009 more than 600 railway undertakings and wagon keepers have signed it, almost all railway undertakings and keepers from European Community. Article 1 of the GCU sets up the link with the COTIF in force.

The scope of the agreement is to unify the contract for the use of wagons at international level, applicable to domestic and international traffic. Thereby avoiding the need for wagon keepers to renegotiate the terms of each contract for each individual freight wagon.

### 3.3. Relation between the multilateral agreements and the EU-legislation

The current version of COTIF, COTIF 1999, has seven appendices. Four of them (CIV, CIM, CUV, CUI) deal with uniform rules (a common law across the member-states) that govern the contractual arrangements between parties. The appendices to COTIF 1999 and EU legislation (in particular Directives 96/48, 96/49, 2001/14, 2001/16, 2004/49 and 2004/50) cover to a significant extent the same matters. Most EC Member States which are signatories to both
COTIF and to the EC Treaty have obligations and duties stemming from both. The EC advised Member States on 5 May 2006, that as a temporary solution, pending definitive settlement of COTIF's relationship with EU law, those Member States that have already ratified COTIF must make a declaration according to Article 42(1) to ensure compliance with their Community law obligations. The declaration to state that they will not apply in their entirety the CUI, APTU and ATMF annexes (these are the annexes, which conflict with EU law). Member States will be able to lift their declaration once a proper 'disconnection' clause has been re-negotiated within the accession agreement, and applied.
4. Development of the responsibility for maintenance of freight wagons

Following the changes to the multilateral agreements and the introduction of EU legislation, the responsibility for the maintenance of freight wagons changed over the course of time. The maintenance regimes also cover parts of railway vehicles that have huge impact on safety such as wheel sets and brake components.

4.1. The regime of maintenance under multilateral agreements

- Under **COTIF 1980 + RIV** all freight wagons were registered by the integrated railway companies which were regulating all aspects of maintenance.

  The number of RUs was limited generally to one by Member State. As exchange of wagons was limited to exchange between RUs there was a mutual trust (gentlemen agreement) regarding maintenance.

  There were no standardised legal rules for maintenance, the only level of harmonisation was UIC level.

- Under **COTIF 1999 + GCU** the registration of vehicles was transferred under Member State authority (in general the NSA). The responsibility of maintenance was transferred to wagon keepers in the GCU.

  In GCU the responsibilities are defined and split between the RUs and the keepers:

  **Article 7.2**: The keeper must furnish proof to user RUs on request that the maintenance of his wagons is compliant with the legislation in force.

  This article assigns the responsibility for maintenance for the keeper. The keeper is responsible for maintenance even if the work is transferred to third parties.

  The RU must perform all inspections laid down in Appendix 9 of GCU at the time of the technical inspection of the exchange of the wagons.

  Corrective and preventive maintenance is ruled by Appendix 10 that refers to the UIC-leaflet 579-1 ‘Wagons-Periodic overhaul – Methods for establishing its frequency and nature’.

  The catalogue of damage to wagons, Appendix 12, sets the responsibility between keepers and RUs. Example: when an axle shaft is bent out of shape the RU is responsible when there is a sign of shock, the keeper is responsible when there is no sign of shock.

4.2. The regime of maintenance under EU-legislation

For EU-member states the former self-regulated system, which includes maintenance was replaced step-by-step by a public regulated system:
• **Directive 2008/57** on the interoperability of the trans-European rail system mentions in the article 15.2 that each Member State (in fact the NSA) shall check, before a wagon is placed in service, that it complies with relevant TSI provisions on maintenance.

• **Directive 2004/49**, amended by **Directive 2008/110** on railway safety states in its article 14a the provisions for certification of ECM. This certification will be mandatory for freight wagons ECMs.

• **Decision 2006/861** (WAG TSI) applicable from 28 January 2007. Provisions for maintenance are limited to delivery and management of documentations. Assessment on delivery is limited to compilation by the Notified Body. The assessment on management of documentation is an open point.

• **Decision 2009/107/EC**, amending WAG TSI, applicable from 1 July 2009. It contains additional requirements for maintenance defined in Annex JJ2 for closing the maintenance related open point (see above) only for wagons defined in TSI-section 7.6.4 (passe-partout wagons) that represent around 85% of the European fleet.

  For the wagons outside of the scope of TSI-section 7.6.4 the open point related to maintenance remains.

With Directive 2008/110/EC, which amended the Railway Safety Directive 2004/49, the responsibility of maintenance has been assigned to the ECM. RUs, IMs, wagon keepers as well as other entities such as engineering companies may be ECM.

Nevertheless as the RU is responsible for safe operation he has still to get assurance that vehicles are maintained in such way not to impair safety. The certification of ECM is intended to provide this assurance. The responsibilities are split as follows:

• The operational risk of the wagon that is part of a RU’s vehicle is primarily an issue for the RU under its safety management system. The RU has the task of inspecting the operational safety when assembling the train and ensuring safety during rail transport. If a RU during the assembling or operating of the train does not undertake any repairs to any faults which can be recognized or does not ask the keeper to do so, and thereby a incident occurs, they are clearly responsible. This is because it is not feasible for the wagon keeper to take the necessary precautions by himself. If the infrastructure is not sufficiently maintained and the condition causes damage to the wagon, the IM will also bear responsibility for operational risk under its SMS.

• The ECM fundamental obligation regarding the wagon’s operational safety is to organise and monitor the wagon’s maintenance.

  The ECM will update the maintenance documentation. It includes technical documentation, maintenance plan and maintenance working instructions. The ECM will take into account the information on operation received from railway undertakings and the wagon keeper. For new vehicles the ECM should be clearly identified and recorded.
in the National Vehicle Register. This will be extended to existing vehicles for international use by 10 November 2009 and for domestic use by 10 November 2010.

Until the ECM recommendation comes into force in 2011, RUs who operate freight wagons will need to continue to manage the control of who performs the maintenance of the wagons (i.e. themselves or the keeper) through their SMSs.

4.3. Technical Specifications for Interoperability (TSIs)

The Traffic Operation and Management TSI requires RUs to ensure that the train is technically fit for the journey to be undertaken and remains so throughout the journey. The management of safe train composition will be part of the RUs SMS and should include ensuring that all vehicles on the train are within their specified maintenance interval and remain so for the duration of the journey being undertaken.

The Telematics applications for freight TSI sets out requirements for maximum data interchange between operators. When this TSI is fully operational, it should help to ensure that key information on train preparation and wagon movement is shared between the operators of the wagons.

4.4. The regime of maintenance in the transition period

For the transition period until the current EU-legislation is implemented completely ten Member States signed the Memorandum of understanding (MoU) “Establishing the basic principles of a common system of certification of entities in charge of maintenance for freight wagons” on 14 May 2009. It is applicable only for the Member States that are signatories to it: Austria, Belgium, France, Germany, Greece, Hungary, Italy, Luxembourg, The Netherlands and Romania.

The MoU establishes the principles of Article 14a of the Directive 2004/49/EC, amended by the Directive 2008/110/EC on a voluntary basis. The Member States are responsible for the implementation. The certificates are recognised by all Member States that have signed the MoU.

The certificate gives an assurance to RUs that the wagons are maintained by competent entity. ECM may be a RU, an IM or a keeper.
5. Rules on the transport of dangerous goods

Safety rules on Transport of Dangerous Goods (TDG) are adapted to the level of hazard(s) represented by the dangerous substances to be carried and combine two development principles, as follows:

- rules related to ‘substance safety’ are defined to ensure that no immediate hazard(s) from the substance(s) can harm the workers and the public, before, during or after normal transport operations,
- rules related to ‘transport safety’ are defined to ensure that residual risks during transport operations are kept as low as possible and allow integration of dangerous goods freight in an efficient and competitive transport system.

These two general principles are used and applied for all transport modes.

5.1. Rules related to substance safety

In EU railway, ‘substance safety’ is defined by the International regulation concerning the carriage of dangerous goods by rail (RID, appendix C of the COTIF international convention) which is derived from the UN regulation model for TDG and from the Global Harmonized System for classification and labelling of chemicals. RID rules include: classification of dangerous substances following their physical properties, hazards’ types and intensities; design of packaging, containers and tanks; specific provisions for loading/unloading operations of containers and tank-wagons; handling and disposal of packages and containers on wagons as well as labelling of packages and wagons marking. Also RID defines and allocates responsibilities to competent bodies and authorities concerning the correct implementation and control of RID rules. In particular competent authorities are identified for tests, controls, maintenances and inspections applicable to the tank part of the tank wagons. The EU framework Directive on inland TDG (2008/68) defines the application scope in the EU legislation of RID (rail TDG), ADR (road TDG) and ADN (waterways TDG), and sets common conditions for transport derogations or additional restrictions in EU-MS. In EU legislation the application of RID rules is extended to domestic transport.

In addition Directive 96/35 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway requires employers whose employees load, transport or unload dangerous goods in significant quantities to appoint, a special vocationally certified ‘adviser’ to monitor compliance with the transport by road, rail and inland waterway requirements.

5.2. Rules related to transport safety

The EU railway ‘transport safety’ is regulated by the EU Railways Safety Directive. This Directive defines the roles and the responsibilities for safety management, improvement and development of the EU railway transport system. Transport of dangerous goods is part of the Directive’s application scope which also includes requirements for common safety targets (applicable safety levels) and the prevention of serious accidents. From technical perspective the ‘transport safety’ of Community railways is also related to the Technical Specifications for Interoperability (TSI), which takes into account the principles of the Railway Safety Directive.
In particular, the requirements of the freight wagon TSI apply to the wagon part of wagons carrying dangerous goods, similarly to other freight wagons. Thus, a full set of requirements for ‘transport safety’ is defined by these directives and responsibilities for control of design, construction, placing in service, upgrading, renewal, operation, maintenance and safety management of freight transport, including dangerous goods wagons, are defined.

Additional requirements having an impact on the technical specifications of wagons and specific to DG requirements are not in the TSI but only in the RID.

Finally both ‘substance safety’ and ‘transport safety’ influence the overall safety of railway transport as well as the technical compatibility and the performance of EU railway system. This is why it is so important to ensure a good consistency between EU legislation and the RID provisions.
6. Supervision and investigation

The Rail Safety Directive sets out requirements for the establishment of independent National Safety Authorities (NSAs). Their role includes awarding safety certificates to RUs and safety authorisations to IMs and taking forward the supervision of RUs/IMs safety management systems. This supervision should include checking that the conditions and requirements laid down in the safety certificate/authorisations continue to be met. However, this does not mean that NSAs take on the responsibility for controlling the risks arising from railway operations. This remains the shared responsibility of the RUs and IMs.

The NSA also has a key role in undertaking regular inspections and where necessary taking any enforcement action to ensure that the RUs/IMs SMS continues to effectively control all the operational risks. In addition, NSAs are responsible for checking that structural subsystems (i.e. freight wagons) are operated and maintained in accordance with the essential requirements laid down in the TSIs.

Under Directive 2004/49 NSAs must be free to carry out all inspections and investigations that are needed for accomplishment of its tasks. This is particularly important when checking compliance with national legislation implementing the EU Directives and considering any breaches of that legislation which may require some form of legal enforcement. For example, ensuring that RUs SMS’s are adequate in controlling and managing the risks, and if not what needs to be done to rectify any concerns.

The Directive also requires Member States to investigate certain serious accidents and incidents (defines as those with at least one fatality, five serious injuries or with a monetary cost estimated of at least 2.000.000 euros). This is taken forward by the establishment of National Investigation Bodies (NIBs). NIBs are required to carry out independent investigation and to consider the lessons to be learned from accidents without apportioning blame and to make recommendations for the NSAs to consider to improve safety where appropriate. It is then for the NSA to report back to the NIB on any actions taken.
7. Role of the European Commission and the European Rail Agency

7.1. The European Commission

The Commission’s legal role includes:

♦ Where provided by the Treaty, proposing new legislation to Council and European Parliament

♦ Checking and reviewing MS implementation of European legislation. In particular, the implementation of the first, second and third Railway Packages; and

♦ Proposing and adopting secondary legislation through the comitology process.

Where provided in the safety and interoperability directives, draft measures are prepared by the Commission on the basis of ERA recommendations and further submitted to the RISC Committee for opinion. Measures are adopted by the Commission after a favourable opinion of the Committee.

The Committee of Member State representatives was originally established under Article 21 of Directive 96/48/EC. The number of representatives expanded twice, in line with the enlargements of the European Community in 2004 and 2007.

The competences of the Committee have been extended three times: in 2001 with the conventional rail interoperability directive, in 2004 with the railway safety directive, and in 2007 with the train driver certification directive (Directive 2007/59/EC1)

The Committee is chaired by the Commission and has held 50 meetings (up to 31 December 2008). The agenda is prepared by the Commission and includes, as standard parts: items submitted for vote under comitology procedures, items for discussion and items to agree on the Community position for meetings organised by international organisations such as OTIF and OSJD. Since the Agency was established, it has reported regularly on the state of play of its work leading to Commission measures.

Railway interoperability and safety cannot be developed in isolation from other legislation, such as that on ECM (electromagnetic compatibility), air pollution, health and safety, social aspects and dangerous goods. Therefore draft measures are sometimes discussed in other fora before being submitted to this Committee for vote; equally other Committees may be consulted, such as the Dangerous Goods Committee or the Standardisation Committee.

7.2. The European Rail Agency

The Agency was set up in 2005 to help create an integrated railway area by reinforcing safety and interoperability. Its main task is to develop economically viable common technical standards and

---

approaches to safety, working closely with railway sector stakeholders, national authorities and other concerned parties, as well as with the European institutions.

All of the Agency’s work is aimed at increasing freight and passenger traffic by simplifying technical procedures and reducing delays caused by incompatible national systems. By simplifying technical requirements and safety procedures and providing clarity and transparency, the railway sector is able operate in a safe, open, and competitive market.

The Agency is also responsible for monitoring and analysing closely the development of safety on Europe’s railways and their safety performance. Dissemination of information is very important and the Agency uses the NSA and NIB networks to share good practice and learn lessons.

The diagram on P17, describes how the various levels, from the Commission down to the railway sector, operates in practice on the management and improvement of safety.
Diagram on the interaction of the European bodies and the railway sector on safety management and improvement in the EU
### 8. List of abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>APTU</td>
<td>Règles uniformes concernant la validation de normes techniques et l'Adoption de Prescriptions Techniques Uniformes applicables au matériel ferroviaire destiné à être utilisé en trafic international</td>
</tr>
<tr>
<td>ATMF</td>
<td>Règles uniformes concernant l'Admission Technique de Matériel Ferroviaire utilisé en trafic international</td>
</tr>
<tr>
<td>CIM</td>
<td>Contrat de transport International ferroviaire des Marchandises</td>
</tr>
<tr>
<td>COTIF</td>
<td>Convention relative aux Transports Internationaux Ferroviaires</td>
</tr>
<tr>
<td>CUI</td>
<td>Contrat d'Utilisation de l'Infrastructure en trafic international ferroviaire</td>
</tr>
<tr>
<td>CUV</td>
<td>Contrats d'Utilisation de Véhicules en trafic international ferroviaire</td>
</tr>
<tr>
<td>ERA</td>
<td>European Railway Agency</td>
</tr>
<tr>
<td>ERFA</td>
<td>European Rail Freight Association</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>GCU</td>
<td>General Contract of Use</td>
</tr>
<tr>
<td>IM</td>
<td>Infrastructure Manager</td>
</tr>
<tr>
<td>NSA</td>
<td>National Safety Authority</td>
</tr>
<tr>
<td>NVR</td>
<td>National Vehicle Register</td>
</tr>
<tr>
<td>OTIF</td>
<td>Organisation intergouvernementale pour les Transports Internationaux Ferroviaires</td>
</tr>
<tr>
<td>RID</td>
<td>Règlement concernant le transport International ferroviaire de marchandises Dangereuses</td>
</tr>
<tr>
<td>RIP</td>
<td>Règlement concernant le transport International ferroviaire des wagons de Particuliers</td>
</tr>
<tr>
<td>RISC</td>
<td>Railway Interoperability and Safety Committee</td>
</tr>
<tr>
<td>RU</td>
<td>Railway Undertaking</td>
</tr>
<tr>
<td>RIV</td>
<td>Regolamento Internazionale Veicoli</td>
</tr>
<tr>
<td>SMS</td>
<td>Safety Management System</td>
</tr>
<tr>
<td>TDG</td>
<td>Transport of dangerous goods</td>
</tr>
<tr>
<td>UIC</td>
<td>Union Internationale des Chemins de fer</td>
</tr>
</tbody>
</table>
UIP  Union Internationale des Wagons Prives