

## **Second joint statement of UIC, UIP, ERFA and CER with regard to the keeper of rail freight wagons and his responsibility for wagon maintenance**

The undersigned associations, representing the railway undertakings and keepers of rail freight wagons in Europe, had, on October 15<sup>th</sup> 2007, issued a statement referring to the decisions taken by the Committee on Transport and Tourism of the European Parliament (TRAN) on 11<sup>th</sup> September and by the Council on 2<sup>nd</sup> October 2007 with regard to the proposal of the EU Commission for an amended Directive on safety of the Community's railways (Safety Directive) dated 13 December 2006 - 2006/0272 (COD).

In that statement, the associations:

- Welcomed that both TRAN and the Council in their decisions acknowledge the important role of the keeper of rail freight wagons as well as the need to define the term “keeper” in the Safety Directive and to clearly identify the keeper in the national vehicle registers.
- Further welcomed that TRAN voted unanimously in favour of the sole responsibility of the keeper for the maintenance and in favour of a mandatory certification of the maintenance management of the keeper.
- And strongly objected, for the reasons repeated below, to the proposal of the Council to introduce an additional “entity in charge of maintenance” in the Safety Directive which is not in every case identical with the wagon keeper.

The texts of the Interoperability Directive, voted in first reading by the European Parliament on December 11<sup>th</sup>, and of the Safety Directive proposed by the Council and presently subject to the tripartite conciliation procedure, compel the associations to re-issue the position that they already formulated against the notion of “entity in charge of maintenance” and against the voluntary nature of the certification of that maintenance, as advocated by the Council's text.

The associations have previously argued that, under the COTIF 1999 and further outlined in the General Contract of Use for Wagons (GCU), now being applied as a market standard by railway undertakings and wagon keepers, the responsibility for the maintenance of wagons is clearly and solely assigned to the wagon keepers. This needs to be reflected in the amended Safety Directive.

In view of their safety responsibility the railway undertakings have a duty to ensure that the wagon keepers as their contractual partners have fulfilled their maintenance obligations. This task is only materially possible under a **mandatory** certification of the wagon keepers' maintenance management systems.

Without a mandatory certification of keepers, RUs can have no confidence in a keepers' wagon, which they might include in their trains perhaps only once during the lifetime of this wagon. A process in

which each RU must check itself the capacity of each keeper is impossible to manage and too costly for both keepers and RUs, considering the high number of different actors, and a contractual procedure between RUs and keepers is totally insufficient in this regard.

Even though a wagon keeper is free to use the services of third parties to carry out maintenance, the responsibility stays with the keeper. The introduction of an additional “entity in charge of maintenance” in the Safety Directive, in contrast would open up the possibility of an entity entirely different from the keeper taking over responsibility for the maintenance of a wagon, completely blurring the competencies and responsibilities and confusing the information chain.

Furthermore, severe conflicts of interests would arise between a keeper without recognized responsibility and an “entity” detached from the economic and operational realities of the wagon operations. The associations fail to see how this mutual neutralisation would promote the safety and interoperability of the railway system.

The potential split in responsibility would constitute a danger to railway safety. Other than the keeper, a different “entity in charge of maintenance” would not be involved in the day-to-day use of the wagon and due to the lack of contractual ties neither be obliged to deliver nor entitled to request and receive information relevant for maintenance from the different railway undertakings using the wagon.

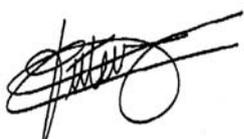
For the associations, only the concentration of roles and responsibilities in one hand, that of the keeper, ensures both aims.

The associations state again that there is no known argument and no evidence presented to support the need for such an additional “entity” and that apparently also no cost-benefit-analysis has been made to support that notion.

In the view of the associations, the introduction of an additional “entity in charge of maintenance” would add to the complexity and cost of the railway sector and would have a potential negative impact on railway safety, while not providing any apparent benefit.

The associations therefore support the text of the Safety Directive voted by the European Parliament on November 29<sup>th</sup> 2007, and request that this text be confirmed in second reading.

**Brussels, January 10<sup>th</sup> 2008**



**UIC**  
International Union  
of Railways



**UIP**  
International Union of  
Private Wagons



**ERFA**  
European Rail Freight  
Association



**CER**  
Community of European  
Railway and Infrastructure  
Companies