



# Assuring the Quality and Integrity of Wagons in European Rail Freight Traffic

UIP Position Paper 31/07/2006

## I. **Background**

Traditionally State Railway Undertakings integrated Private Rail Freight Wagons in their own fleets by means of a registration contract and supervised both wagon maintenance and workshops on the basis of UIC leaflet 433, RIV and the COTIF convention of 9<sup>th</sup> May 1980. The EU liberalisation policy ended the special relationship between Railway Undertaking (RU) and the P-Wagon Owner and consequently the new COTIF (1999) introduced the **Wagon Keeper** as the responsible entity for a freight wagon, being either a RU or a P-Wagon Owner. Equally, freight wagons are not supposed to be treated differently based on ownership.

The traditional responsibilities of State railways such as registration, putting into service and overseeing safety were taken over by the National Safety Authorities (NSAs). This new situation, created by the abolition of monopolistic structures and the emergence of neutral responsibility for freight wagons by a “keeper” which is comparable to the situation in road transport, **was not sufficiently considered when drafting the EU legislation on safety within the Community’s railways.**

Therefore, according to Article 4. 3 of the Directive 2004/49/EC, the responsibility for the safe operation of the railway system and the control of associated risks was laid exclusively on railway undertakings and infrastructure managers but omitted the independent “keepers” which represent a third of the European rail freight wagons.

## II **Current problems**

### 1. **Unachievable safety responsibility of RUs when using third party freight wagons**

The principle of full RU responsibility imbedded in the EU safety legislation especially implies that RUs have to ensure that vehicles placed in their trains are compliant with the required standards and that maintenance has been effected using accredited workshops. All wagons used by a RU are concerned, be they owned by it, hired or leased or supplied by third parties such as other RUs or non RU keepers.

Confronted with the fact that freight wagons move from RU to RU, either through the

choice of the user/shipper seeking better prices or through interchange of traction and rolling stock vehicles between RUs (former State or private RUs) the control of the safety compliance of the wagons used by them will obviously exceed the resources of each RU.

In addition, in the case of a RU not even disposing of an own wagon fleet, it is difficult to understand that its safety certificate should allow it to satisfy the requirements of operational safety for wagons used by it.

## **2. NSAs need an “entity” responsible for wagons**

The NSAs require one uniform Entity to be responsible for its vehicles throughout Europe in respect of their compliance to mandatory Standards and Maintenance Regime. Recourse to a RU in case of damage caused by a wagon will frequently not bring the necessary information and solution of the problem. For the same reason the TSI “Rolling Stock” requires one single Entity - not synonymous with a RU - to be responsible for the maintenance of wagons. Therefore in order to avoid confusion, clear guidelines for assessment of safety and linked responsibility are necessary.

## **3. Private Wagon Keepers are excluded from bearing responsibility for their own wagons**

For Private Wagon Keepers the situation is particularly unsatisfactory. Their wagons have to circulate without barriers throughout Europe if they want to keep their efficiency (50 % of the total rail freight transport is carried out by private wagons representing a third of the total European wagon fleet). By doing so their technical acceptance in accordance with existing rules must be guaranteed.

So long as no European harmonised maintenance rules exist, independent Wagon Keepers depend on the individual requirements of the respective RUs using them. This situation is unacceptable since it risks not being allowed to repair or maintain a wagon where and when the need arises. High costs and time consuming delays are the consequence when, for example, wagons must be returned to their territory of origin or when components like axles or wheel-sets have to be transported throughout Europe. In addition, under the pressure of their exclusive responsibility for safety of rail operation RUs will undoubtedly ask independent wagon keepers continuously for new documents proving compliance with safety standards. This situation creates the risk of a new bilateral dependency on dominant RUs with consequences for the free circulation and the disposal of a considerable neutral wagon fleet for European operators.

## **III. Solution**

The Keeper of a wagon can be an Independent Keeper or a RU. Both should be responsible for ensuring that a wagon is fit for service to the same quality and standards. Each must make available the same TSI requisite technical data to the duty holder RU.

Consequently, **the responsibility of the keeper for his wagons should be recognised, limited to information management and the maintenance of his wagons without concerning the traction, recognition, surveillance and operation of trains.**

This aspect corresponds to the rules of the General Contract of Use (GCU) and the former UIC leaflet 433 agreed on between RUs and wagon keepers: The keeper must manage the maintenance of the wagons , for which he is responsible, in accordance with the current rules.

In accordance with Appendix 10 of the GCU, the keeper's maintenance system must guarantee the minimal technical state necessary for the use of the wagons and fulfil the safety requirements, particularly with the use of a maintenance plan. Although the keeper retains the full responsibility for the maintenance and the management of the maintenance plan, he may subcontract whole or part of the maintenance plan management where appropriate for commercial or manpower reasons.

#### IV. **UIP Proposal**

- **The keeper of wagons should be introduced into the list of definitions of the Directive 2004/49/EC.** This definition could serve as a reference to the different legal texts granting already limited responsibility to a keeper for his wagons. It is reminded that already some national legislations (Germany, Poland) have foreseen obligations for the wagon keeper .
- **On the basis of this definition the wagon keeper should encompass responsibility for a vehicle in respect of its compliance to mandatory safety standards and maintenance regime.**
- To meet the safety requirements of the RU, **a Standard Maintenance Format** for all Keepers should be drawn up which supports both the ongoing use of current maintenance standards for existing wagons and the maintenance regime for new TSI wagons.

In this framework the keeper should have :

- *A Maintenance Policy*
- *A Maintenance Plan for each type of wagon, listing actions to be undertaken at required periods. Existing RU plans should be made available to independent keepers free of charge.*
- *A Safety Performance Monitoring System (SPM) which enables the Keeper to meet the requirements of EU Directive 2001/16/EC Article 18 par.3 to effect the required constant or routine monitoring, adjustment and maintenance.*

Such an SPM allows the keeper to control the safety requirements for his wagons, to set the pace for his maintenance and review his costs in an efficient but safe manner. It is proposed, in addition, that the keeper's safety maintenance system will be subject to accreditation by an NSA accredited body independent from an RU.

By so doing it can be demonstrated that the Keeper ensures safety in accordance with the requirements of EU safety rules and TSIs.

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