

RECOMMENDATION ERA-REC-1175-4

Annexe 3: comments received

The comments received from the organisations participating to the Working Party are copied here below in their chronological order of reception by the Agency.

Comment from NSA CH

In line with the ERA proposal for additional stakeholder comments following the 29th TSI WP, NSA CH would like to provide the following additional written input regarding CR 680, and the issue of retrofitting of wagons:

We share the concerns raised by the other TSI WP members (such as NSA FR, CER, UIRR, ERFA) that the new requirements introduced in the TSI WAG amendment proposal (namely those related to the locking force & strength requirements, devices to secure vertical upwards) may introduce a heavy economic burden for the sector, in particular for those operating in multimodal transport.

The heavy costs (due to expensive engineering and modification activities) leading to a new authorization process for existing and already approved wagons, may result in the elimination of an important part of the wagon fleet in Europe.

Therefore, we believe that instead of introducing retroactivity and focusing on technical solutions only, it would be more appropriate to reorganize path management on critical routes, in such a way as to avoid crossing when weather conditions may be adverse. The safety improvements should be tackled by both JNS subgroups AMOC + Risk Analysis. The ERA statistics also confirmed that the rate failure of pocket wagons loaded with semitrailers is very minimal; therefore, the retroactivity measures would not be a proportional/optimal solution. The semi-trailers would affect precisely the segment that has seen the greatest growth in combined transport in recent years and the availability of pocket wagons is already limited. This may also result in considerable fleet reduction across Europe, especially in the multimodal sector.

With this in mind, we support the analysis of non-technical measures as they have already been discussed at the NSA and MS level with the Agency and the EC:

- Examination of measures of operational nature (OPE related)
- Guidelines for IM for a holistic risk assessment of freight transport on infrastructures exposed to crosswinds

Comment from NSA DK

The Danish NSA (Trafikstyrelsen), would hereby express its full support for the proposal for updates to the Technical Specification for Interoperability for wagons (TSI WAG), proposed by the European Union Agency for Railways (ERA).

The accident on the Great Belt in Denmark, 2nd of January 2019 and the incident the 19th of January 2021, where empty semi-trailers on pocket wagons left their position, have shown a need for improving safety measures when transporting semi-trailers on pocket wagons. Accidents in Norway (Ingedal) in 2006 and in Germany (Hamburg) in 2014, show that the problem is not only a Danish (Great Belt) problem.

Additionally, as indicated in the recommendations by the Accident Investigation Board in Denmark (AIB DK), it is crucial that “safety critical maintenance and safety critical ‘accessories’ are identified”. In the investigation reports by AIB DK regarding the accident in 2019 and the incident in 2021 on the Great Belt Bridge, AIB DK stated that the coincidence of circumstances that could lift and blow an unrestrained semi-trailer off a pocket wagon on the Great Belt Bridge could also occur on the European railway network. Furthermore, AIB DK recommended ERA to ensure clear requirements for securing the vertical retention of semi-trailers loaded onto pocket wagons.

The Danish NSA sees the proposal for TSI WAG as a large step forward to solve the safety issues identified with semi-trailers on pocket wagons. It is especially positive that some of the safety increasing initiatives, shall not only be implemented on new or upgraded wagons, but also be implemented on existing pocket wagons e.g. clear marking of positively assessed conformity with locking force of 85kN, indicated by a green dot on the pocket wagons as well as marking of the performed maintenance and date of the next maintenance.

It is also positive that the request for making the seating device an interoperability constituent has been implemented in the proposal for TSI WAG.

NSA DK has noted suggestions to replace the proposed “green dot” solution with a digital approach for managing hitch-related information. While this idea holds potential, NSA DK has some concerns regarding the proposed digital solution for marking pocket wagons.

Although RSRD has been suggested as a potential solution, it is currently insufficient, as not all relevant data can be accessed through this register. Therefore, continuing to explore RSRD as a viable electronic register solution does not seem practical.

Based on these considerations, particularly the importance of ensuring accurate data processing and easy access for all stakeholders, NSA DK recommends that the inclusion of a digital solution in TSI WAG be postponed.

If an electronic solution is to be included in the TSI WAG, NSA DK strongly advises that its implementation runs concurrently with the green dot marking for a transitional period. This dual approach will allow the electronic register to demonstrate its ability to meet the requirements, ensuring that both new and existing pocket wagons are marked in compliance with the information specified in the TSI WAG.

Comments from UIRR

From: [REDACTED]
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To: TSI Working Party Members

cc: [REDACTED] EC - DG MOVE - [REDACTED]
cc: [REDACTED]

Sent exclusively by email

Subject: TSI working party | revision of the TSI WAG

[1/3]

Dear Members and deputies of the Working Party on TSIs,

The International Union for Road-Rail combined transport (UIRR) is the industry association representing the interests of intermodal operators and freight terminals in Europe. The UIRR members have transported more than 4.5 million consignments in 2023, of which 15% are semi-trailers. They are also owners and/or keepers of more than 14,000 intermodal wagons, of which 30% are pocket wagons specifically designed to carry semi-trailers.

UIRR and its member companies have constantly supported the development of a Single Railway Area based on robust, stable and coherent EU legislation and standards to be implemented in a harmonised way by the Member States. In this context, Member States are therefore prevented from defining and imposing new measures that impact, for example, the currently agreed common wagon authorisation process at EU level (4th Railway Package) and the ongoing investments in wagon and intermodal loading unit assets. In case of uncertainties within the rail freight transport, the intermodal customers are free to choose other transport solutions such as pure road transport or short sea shipping.

Since the dramatic accident in Denmark in January 2019, UIRR has contributed significantly to the activities of the various urgent and normal procedures of the Joint Network Secretariat (JNS). UIRR was the coordinator of the 2022 action plan on the risk mitigation measures for pocket wagons equipped with any types of hitches. This plan was used as a basis for updating the Acceptable Means Of Compliance (AMOC) on safety of load in the subgroup 1 of the JNS Crosswind, which started in January 2024.

Over the last few years, intermodal freight traffic transiting across the Great Belt Bridge has been significantly impacted by a number of measures taken by the Danish National Safety Authority regarding the transport of semi-trailers on pocket wagons across the Great Belt Bridge.

UIRR has on several occasions questioned the reasons why Denmark has introduced its own approval procedure for pocket wagons which does not comply with the current EU legislation, as it is non-transparent, arbitrary and even discriminatory. This has been detailed in various letters sent to the EU Commission, ERA and the Danish Ministry of Transport. UIRR has, together with ten major players (wagons keepers/owners, railway undertakings), has urged the Commission to formally issue the already existing Draft Commission Implementing Decision (<https://ec.europa.eu/transparency/comitology-register/screen/documents/097788/1/consult?lang=en>) requesting the repeal of the Danish national order. In case of an inadequate reaction, the Commission may initiate an infringement procedure as prescribed by the EU Treaties.

In this context, UIRR has participated in various subgroups of the JNS Crosswind. One of the tasks was to provide recommendations on devices to secure semi-trailers in the TSI Wagon, supported by a new technical document. The final results were presented to all the parties involved during the 29th Working Party on the revision of TSIs. With this letter, UIRR would like to raise the following points and concerns:

1. The accident and incident with pocket wagons in Denmark took place only on the Great Belt Bridge (GBB), which is an infrastructure asset subject to very high (cross)wind forces. It is a peculiarity that should be managed and solved locally. It is therefore unlikely that the worst-case scenario in one regional subsystem would be applied to the whole rail system or network.
2. The new requirements (1) do not guarantee at all that the NSA Denmark will in practice lift its national order, (2) cannot be considered as an agreement of all experts within the JNS, (3) are not based on a clear risk analysis on the introduction of these new measures and (4) have been elaborated without a prior proper, complete and finalised impact assessment, including the impact of new possible risks.
3. The experts of the JNS Crosswind – Subgroup 1 (AMOC) have not yet been able to evaluate the overall impact of all measures as the draft impact assessment report has been officially transmitted on the 20th December 2024 to the experts of the JNS Crosswind – subgroup (AMOC), several weeks after the proposed WAG TSI modifications. This impact assessment has not yet completely assessed the overall costs for all possible cases and scenarios. In some cases (to be identified), intermodal wagons designed for the transport of semi-trailers may no longer be used for the transport of semi-trailers because these requirements are new, and the wagons were authorised under another legal framework and different rules and standards. The evaluation of the costs related to the requested re-engineering has not been thoroughly analysed in the past. In addition, the current estimation may not reflect reality, as a general structural examination of the wagons under the current rules is absolutely needed for a reliable impact assessment.
4. The new requirements, without even considering the application of the existing EU legislation, have been defined and issued by the Commission and ERA under pressure from the NSA DK, with the sector in a pro-active position challenging and improving the proposed specifications. The final outputs are to be considered as not satisfactory, as the main issue of “crosswind” has not been fully analysed and assessed.
5. In the Annex 1 of the Commission Implementing Regulation 402/2013 on the common safety method for risk evaluation and assessment, its Article 2.5.4 clearly states that *“for technical systems where a functional failure has a credible direct potential for a catastrophic consequence, the associated risk does not have to be reduced further if the rate of that failure is less than or equal to 10^{-9} per operating hour”*. It has been demonstrated by evidence that **the analysed risk “semi-trailers on pocket wagons move outside the gauge during transport” is under control** on the entire European territory and the transport of semi-trailers on pocket-wagons is safe and therefore the potential risk is lower than the above mentioned 10^{-9} per operational hour.
6. Moreover, even if the risk is under control, the current level of safety can always be improved by new requirements, such as the new specifications and rules set by the JNS. However, as stated in the draft full impact assessment, the objectives of the JNS exercise concern the development of mid- and long-term measures to sustainably return to the previous cost base or lower. UIRR questions and challenges the fact that these new requirements will not only become mandatory for Denmark and the whole of Europe but will also be **applicable retroactively for all current circulating wagons and devices to**

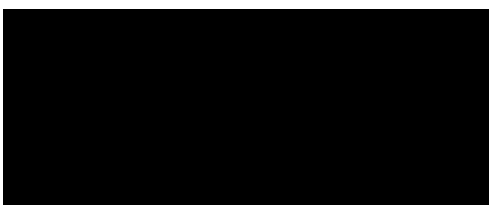
secure the semi-trailers (hitch types). Retroactivity is usually introduced in the case of risks with high occurrences, that do not apply to the present case: a direct correlation between occurrence in operation and retroactivity in this case is not given by scientific means. This mandatory “retrofitting” element was brought to the attention of the experts very late in the JNS process. UIRR has on several occasions expressed its concerns about the benefits and the increase in costs of such a measure for the European Union, knowing that the current system is risk-free under Regulation 402/2013.

7. Any new requirements in the TSI WAG should also consider the **integration of digital components to boost the digitalisation of the intermodal freight sector.** UIRR has expressed several times its opposition to impose additional new physical markings on intermodal wagons and has proposed appropriate digital alternatives to the proposed markings to avoid a purely bureaucratic over-regulation such as the grid and the green dot marking. Innovative digital solutions would facilitate not only the daily operations but also the supervision activities of the various NSAs in Europe. In addition, this weakens the principle of the current legislative framework for the ECM, which is the entity delegated to recall wagons for maintenance in the correct period (see the Commission Implementing Regulation 779/2019 in the Annex 2, Function III, art. 3 and 4).
8. In the new technical document, the point 2.2 addresses the **vertical locking force, structural strength and strength for the connection between the wagon and the device** needed for the devices to secure the semi-trailers. In the absence of a TSI requirement for minimum crosswind stability, this static force has been set to 85kN without a sound scientific approach. The JNS Crosswind - Subgroup 2 on risk analysis is to develop a sound methodology for a holistic assessment of the risks related associated with crosswind and freight transport, allowing a clear quantification of the phenomenon, with the objective of completing all activities by the end of 2025. The outcomes of this subgroup 2 could lead to different formulas and values.
9. In the new technical document, the point 2.3 introduces **the requirement that the devices used to secure semi-trailers must indicate reliably** if the semi-trailer is correctly locked. As the degree of reliability has not been defined, it must be pointed out that this requirement will be difficult for the notified bodies to assess and will result in complications for the future authorisation of pocket wagons.

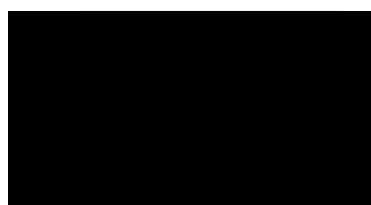
It is a proven fact that the use of Combined Transport services drastically reduces greenhouse gas emissions by up to 90% compared to unimodal road transport. The current measures imposed by the Danish authorities and the new TSI requirements on pocket wagons directly endanger the targets set by the European Commission in its Green Deal and Fit for 55 package to reduce the CO₂ emissions by at least 55% by 2030. The new WAG TSI requirements, which significantly increase the total costs of intermodal freight transport, also affect the overall competitiveness of the intermodal freight sector.

Looking forward to your constructive comments and actions, we remain,

Thankfully yours,



Director General



Technical Director

Comments from CER

In a nutshell, CER does support the key positions outlined in the UIRR paper.

It's worth to mention that CER had consistently shared similar views with all the interested parties (especially during the two last UWP – Unique Working Party – sessions).

In more details, our main concern remains on the scope of application in relation to point 4.2.2.4.2 (= locking force).

In the proposal, this is understood that point 4.2.2.4.2 shall apply to all 'units in operation' (with 1 year transition regime).

In CER view, applying the new requirement to the whole existing fleet of wagons is neither suitable nor proportionate.

Without prejudice to future safety enhancements (as expected) and ALARP argument, we strongly believe that ERA recommendation should prioritise the available scenario featuring the best consideration for the area of use principles and the singular context of Great Belt Bridge in Denmark.

Meanwhile, it is important to note that the remit under JNS sub task 2 hasn't yet been completed (= guidance on holistic risk assessment), which prevents from getting to the full picture of the situation coped and its future developments.

As always, CER remains fully dedicated to support the development of the most appropriate solutions.

Comments from ERFA

ERFA supports the concerns raised by UIRR below. We have particular concerns regarding new requirements being applicable retroactively for all current circulating wagons and devices to secure the semi-trailers (hitch types).

This is all the more so considering the cases that were brought to the attention of the Working Party TSIs members yesterday. For both cases, it is by no means possible to trace them back to the same modalities as the events in Denmark. Moreover, for the information of all Working Party TSIs members, the same had already been assessed in the analysis carried out by ERA in 2019, as part of the JNS Great Belt Bridge. The analysis confirmed that the risk was largely under control, as required by EU laws and especially the Common Safety Method on Risk Assessment (CR 402/2013). This further confirms how the industry cares about the safety of the railway system and manages the risk at the community level on this precise aspect. Therefore, it is ERFA's opinion that the traffic in question cannot be jeopardised in the entirety of its European network, due to a local specificity.

As pointed out, is not clear on what basis the new requirements are to be made, especially retroactively for the current fleet of wagons.

With this e-mail, please therefore note ERFA support for the UIRR position. Apologies for the mail to all, but we believe it is necessary to flag industry concern on this issue.

Comments from UIP

Following the key positions outlined by UIRR, ERFA and CER, we'd like to share our views as well on the discussions **around CR680** during the December meeting.

- **UIP supports the introduction of a European rule in the TSI WAG** which ensure the national rule in Denmark will be withdrawn.
- **UIP questioned the necessity to apply the rule retroactively to the whole European pocket-wagons fleet** as no evidence were provided regarding the technical feasibility for all types of units. This is, beside the question of proportionality (Impact Assessment), a key element to ensure that

the retroactive application is non-discriminatory. A compromise could be to introduce a specific rule for Denmark saying that point 4.2.2.4.2 shall apply to all 'units in operation' with 1 year transition regime, while keeping the application of the rule for existing pocketwagons, which might never be used in Denmark, voluntary.

- **UIP questioned the appropriateness of introducing only a new physical marking** for the changes embedded in CR680 as the issue of "knowing" about the technical equipment and its maintenance status could be easily solved by electronical means. The enhancement of the current Rolling Stock Reference Database (TAF TSI Baseline 3.5.1) with the appropriate data and information could be done and implemented on short notice and would provide a better solution when it comes to making sure that data can be shared and exchanged.

In this sense, we are aligned with the positions of our colleagues from UIRR, CER and ERFA and share in particular the concerns of UIRR regarding the negative impact the application of a new rule to the whole existing fleet might have on the competitiveness of the intermodal freight sector.

We further fully support CER's ALARP (As Low As Reasonably Practicable) argument and would propose the introduction of a specific rule for Denmark for the retroactive application of the new rules.