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**ADVICE**

*ERA/ADV/2014-1*

**OF THE EUROPEAN RAILWAY AGENCY**

FOR

*EUROPEAN COMMISSION*

REGARDING

*EXTENSION OF THE "GE" MARKING OF WAGONS AS DEFINED IN COMMISSION REGULATION (EU) 321/2013 TO WAGONS AUTHORISED ACCORDING TO DECISION 2006/861/EC AND ITS POINT 7.6.4*

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The present document is a non-legally binding advice of the European Railway Agency. It does not represent the view of other EU institutions and bodies, and is without prejudice to the decision-making processes foreseen by the applicable EU legislation. Furthermore, a binding interpretation of EU law is the sole competence of the Court of Justice of the European Union.



## 1 General Context

This advice concerns the Commission Regulation (EU) No 321/2013 of 13 March 2013.

By e-mail dated 09th January 2014, DG MOVE asked the Agency to provide an advice on a request from CER, UIP and ERFA to examine the possibility to allow to affix the 'GE' marking as outlined in the revised WAG TSI also to wagons of the existing fleet which have been authorised in accordance with:

- the Decision 2006/861/EC, amended by Decision 2009/107/EC of 23 January 2009 including its point 7.6.4 or
  - the latter, amended by Decision 2012/464/EU of 23 July 2012,
- without any new notified body assessment or any new authorisation for placing in service by a national safety authority.

The justification for this request is provided in the document issued by CER, ERFA and UIP to the Commission (attached in the annex). The purpose of this request is to ease the operation of freight wagons, particularly the pre-departure checks, the users of freight wagons (CER, UITP and ERFA) considering that a unique marking would better satisfy their needs.

The following documents have been used to prepare this technical advice:

1. Letter from UIP/CER/ERFA dated 8th July 2013 (attached in the annex)
2. Commission Regulation (EU) No 321/2013 of 13 March 2013 hereinafter referred to as revised WAG TSI.
3. Commission Decision 2006/861/EC, amended by Decision 2009/107/EC of 23 January 2009 or the latter amended additionally by Decision 2012/464/EU of 23 July 2012 hereinafter referred to as previous WAG TSIs.

## 2 Legal Background

1. Article 21(b) of Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency<sup>1</sup> (Agency Regulation) provides the possibility for the Commission to request assistance from the Agency, including communicating information on how specific aspects of the EU legislation are implemented and providing technical advice in matters requiring specific know-how.  
The request received to allow to affix the 'GE' marking as outlined in the revised WAG TSI also to wagons of the existing fleet which have been authorized in accordance with the previous WAG TSIs is related to EU legislation implementation.
2. The Directive 2008/57/EC of the European Parliament and of the Council of June 2008 on the interoperability of the rail system within the Community<sup>2</sup> (Interoperability Directive) sets out the principles concerning authorisation for placing into service of new vehicles or of vehicles after renewal or upgrade, and in particular conditions for the application of TSIs.
3. The Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways<sup>3</sup> (Railway Safety Directive), states in its Article 4.3 that "Member States shall

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<sup>1</sup> OJ L 164, 30.04.2004, p. 1, as last amended by Regulation (EC) No 1335/2008 (OJ L 354, 31.12.2008, p. 51)

<sup>2</sup> OJ L 191, 18.7.2008, p. 1–45, as last amended by Directive 2009/131/EC (OJ L 273, 17.10.2009, p. 12–13).

<sup>3</sup> OJ L 164, 30.4.2004, p. 44, as last amended by Directive 2009/149/EC (OJ L 313, 28.11.2009, p. 65)



ensure that the responsibility for the safe operation of the railway system and the control of risks associated with it is laid upon the infrastructure managers and railway undertakings, obliging them to implement necessary risk control measures[...]" ; this applies to the operation of freight wagons.

### **3 Analysis**

#### **3.1 Requirements set out in the revised WAG TSI**

The 'GE' marking as defined in the revised WAG TSI is optional and indicates that a wagon complies with

- all requirements set out in section 4.2
- fulfil all conditions set out in point 7.1.2 and
- fulfil all conditions set out in appendix C.

The decisions of affixing such marking to the wagon and using it are the responsibility of the railway undertaking.

#### **3.2 Comparison of the previous WAG TSIs and the revised one**

In the previous WAG TSIs the requirements to mark a wagon 'TEN G1' are defined in section 7.6.4 (G1) and Annex P.5 (TEN). The 'TEN G1' marking is optional.

Compared to the previous WAG TSIs the revised WAG TSI contains several additional basic parameters and requirements such as

- Bogie - strength (4.2.3.6.1)
- Wheel - set strength (4.2.3.6.2)
- Wheel - strength (4.2.3.6.3)
- Axles - strength (4.2.3.6.4)
- Axle boxes / bearings - mechanical resistance / fatigue (4.2.3.6.5)
- Variable gauge wheelset - safe locking (4.2.3.6.6)
- Brake - safety requirements (4.2.4.2)

Moreover, the revised WAG TSI refers to the most recent European standards in order to consider the technical progress. The previous WAG TSIs refer to either European standards available before 2005 or in most of the cases to its Appendix where the content of UIC leaflets available before 2005 is set out.

Therefore, the two markings 'GE' and 'TEN G1' do not correspond to the same technical requirements or characteristics.

For each wagon, the technical characteristics assessed during the EC verification procedure are recorded in the technical file together with the limits and conditions of use; the technical file is attached to the EC declaration of verification and provides all relevant information to the users of the wagons.



### 3.3 Evaluation of possible options

#### 3.3.1 Strict limitation of the 'GE' marking as defined in the revised WAG TSI

The revised WAG TSI sets out several additional basic parameters and requirements compared to the previous WAG TSI.

Therefore, in order to apply the 'GE' marking on wagons authorised according to the previous WAG TSIs including their point 7.6.4, the wagon might be reassessed against the revised WAG TSI and a new authorisation for placing in service may be needed under the framework set out in the Interoperability Directive (art. 20, renewal or upgrade, or art. 22, first Authorisation for placing into service)

The EC declaration of verification and technical file shall be updated in order to reflect compliance with the different technical requirements.

This option is currently described in the application guide of the revised WAG TSI, and corresponds to the strict application of this TSI.

#### 3.3.2 'GE' marking affixed to wagons in other cases

Provided that necessary amendments are brought to the revised WAG TSI, the 'GE' marking could also be affixed to wagons compliant with the previous WAG TSIs including their point 7.6.4. The 'GE' marking definition would then be extended to also replace the 'TEN G1' marking definition given in the previous WAG TSIs.

In such a case, neither a new EC declaration of verification nor updating the technical file is necessary; the original technical file issued under the previous WAG TSIs remains valid regarding the technical characteristics of the wagon, and ensures the traceability of the TSI revision applied. The 'GE' marking does not ensure this traceability, but it is not its purpose.

Both the 'TEN G1' marking and the 'GE' marking were introduced in the TSIs at the request of the railway undertakings' representative bodies in order to use them on a voluntary basis for operational purposes; the corresponding underlying interpretations are not defined in the revised or previous wagon TSIs.

This option corresponds to the request from UIP, ERFA and CER.

Since the Annex (technical part) of the revised WAG TSI applies in general to new, upgraded and renewed subsystems when they are subject to the application of the EC verification procedure, an amendment of this Annex is not suitable; it is proposed to amend the Article 3 of the enacting part of the revised WAG TSI which deals already with the application of specific parts of the TSI to the existing fleet without new conformity assessment (see point (b) of this article).

### 3.4 Conclusion

The Agency sees no technical objection in the implementation of the option set out in paragraph 3.3.2 above, as long as the 'GE' marking remains optional and as long as its interpretation for operational purpose (e.g. in train pre-departure checks) remains under the railway undertaking's responsibility.

In any case, the WAG TSI version (previous or revised) applied for assessment of the wagon is recorded (EC declaration, technical file); the traceability of the assessed technical characteristics of the wagon is then provided.



## 4 The advice

Further to the request from users of freight wagons and the analysis presented in the section 3 above, the Agency's advice is that the Article 3 of the enacting part of the revised WAG TSI should be amended in order to allow to affix the 'GE' marking also to wagons of the existing fleet which have been authorised in accordance with the previous WAG TSIs including their point 7.6.4.

This article 3 should be complemented with the point (c) below (in bold characters):

*"Article 3*

*The TSI shall apply to all new freight wagon rolling stock of the European Union's rail system, taking into account Section 7 of the Annex.*

*The TSI set out in the Annex shall also apply to existing freight wagon rolling stock:*

*(a) when it is renewed or upgraded in accordance with Article 20 of Directive 2008/57/EC; or*

*(b) with regard to specific provisions, such as the traceability of axles in point 4.2.3.6.4 and the maintenance plan in point 4.5.3.*

***(c) with regards to the marking 'GE' as depicted in Appendix C.5 of the Annex, wagons of the existing fleet which have been authorised in accordance with the previous WAG TSIs including their point 7.6.4 (Commission Decision 2006/861/EC, amended by Decision 2009/107/EC of 23 January 2009 or by the latter Decision and Decision 2012/464/EU of 23 July 2012) may receive this marking 'GE' without any additional third party assessment or new authorisation for placing in service. The use of this marking within operation remains under the responsibility of the railway undertakings.***

*The detailed technical scope of this Regulation is set out in Chapter 2 of the Annex."*

The Agency underlines that this amendment relates only to the marking of the concerned wagon, without any impact on the EC declaration of verification and associated technical file referred to in the authorisation for placing in service of that wagon.

If and when such amendment is adopted by the Commission, the Agency will update the application guide of the revised WAG TSI accordingly.

Valenciennes, 21 JAN. 2014

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