



QUESTION / CLARIFICATION

Ref: 0893-03

CO-ORDINATION BETWEEN NOTIFIED BODIES
DIRECTIVES 96/48/EC AND 2001/16/EC ON THE
INTEROPERABILITY OF THE TRANS-EUROPEAN HIGH-SPEED
AND CONVENTIONAL RAILWAY SYSTEMS

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TITLE	
ASSESSMENT AGAINST NEW AND REVISED TSIs	
ORIGINATOR	SUBJECT RELATED TO
EBC	Certification
DESCRIPTION AND BACKGROUND EXPLANATION	
<p>Certification processes carried out by the notified bodies to date have shown several problems in particular for manufacturers of interoperability constituents. These are creating real obstacles for certification and may lead to the consequence that a certificate against TSI and the Directive is not possible, with the result that an open single market is negated.</p> <p>The wording of the Directives and TSIs requires that all certificates relate to total conformity to the published TSIs. A number of situations arise where:</p> <p>Problems arise where this may not be possible, e.g. if certification is intended to be done against a "frozen" future version of a TSI.</p> <p>The timescale for translation and "coming into force" of TSIs is considerable. Where a new version of a TSI (or an EN for that matter) is fixed, then certification should be permitted against these new versions, to be clearly stated on the certificate.</p>	
SUGGESTED RESOLUTION / INTERPRETATION	
<p>Once a TSI version has been formerly adopted by the Article 21 Committee, then certification may be permitted against it before remaining translations and coming into force periods are completed.</p>	
ORGANISATION(S) REQUESTED TO RESPOND (E.G. TSI GROUP, A21C, AEIF ETC.)	
Article 21 Committee	
DATE OF AGREEMENT AT NB RAIL PLENARY MEETING	
PM13 Feb 16 th 2005	
RESPONSE FROM ORGANISATION ABOVE	
<p>Response of Article 21 Committee on 01/12/2005, Ref.: E2/JAV/aca D(2005) 124446:</p> <p>Whilst TSIs are being drafted, they may be subject to changes requested by Member States or users and representative organisations. The TSI itself will be frozen at the moment of adoption, and until that time may still be subject to modification.</p> <p>Once TSIs obtain a favourable opinion from the Article 21 Committee, they are then translated into all Member State languages; the translation process is lengthy but this is understandable in consideration of the technical content of the texts. The translations are verified by national experts before their formal adoption by the Commission and subsequent notification to Member States.</p> <p>On notification, the TSIs are legal texts and their application is mandatory. Verification and certification of a subsystem or interoperable constituent against a draft TSI which</p>	



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has not yet adopted by the Commission, or a TSI undergoing translation has no legal basis. Any certificates issued by the notified body on the basis of these drafts will not have European validity.

Hence the use of documents with no legal basis for the EC verification and validation of subsystems and interoperable constituents cannot be envisaged.