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Working Party on Rail Transport

Group of Experts towards Unified Railway Law

Fourteenth session

Geneva, 5-7 October 2016

Report of the Group of Experts towards Unified Railway Law on its fourteenth session

I. Attendance

1. The Group of Experts towards Unified Railway Law held its fourteenth session from 5 to 7 October 2016 in Geneva.
2. The session was attended by experts from the following countries: Belgium, Germany, Greece, Lithuania, Luxembourg and the Russian Federation. A representative of Iran (Islamic Republic of) attended under Article 11 of the Terms of Reference of the United Nations Economic Commission for Europe (UNECE).
3. Experts from the following intergovernmental organizations participated: Intergovernmental Organisation for International Carriage by Rail (OTIF). Experts from the following non-governmental organizations participated: Community of European Railway and Infrastructure Companies (CER), Coordinating Council on Trans-Siberian Transportation (CCTT), International Rail Transport Committee (CIT).
4. At the invitation of the secretariat, experts from the following organizations participated: CMS Cameron McKenna LLP, Deutsche Bahn AG, JSC "Russian Railways" (RZD), PJSC Transcontainer, Transcontainer Europe and PKP Cargo.

II. Adoption of the agenda (agenda item 1)

Documentation: ECE/TRANS/SC.2/GEURL/2016/4

5. The Group of Experts adopted the provisional agenda.

III. Preparation of the necessary documents following the draft legal provisions (agenda item 2)

6. The Group of Experts exchanged their views on which documents should be used for the pilot tests and for the new legal provisions when in force. Regarding the pilot tests, they were of the opinion that existing documents should be used, such as the Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM), the Agreement on International Railway Freight Transportation (SMGS) or the common CIM/SMGS consignment note.

7. For the new legal provisions, some of the experts were of the opinion that they should not suggest the use of existing documents because those documents were prepared either for specific legal instruments (Convention concerning International Transport by Rail (COTIF)/SMGS) or for specific projects (common CIM/SMGS consignment note) and new ones should be prepared. They also pointed out that these new documents should not contradict the existing ones in order to avoid legal duplication, which should also mean double legal standards. However, some other experts were of the opinion that they should not reinvent the wheel and existing documents should be used in order to serve the new legal provisions. All experts agreed that the electronic version of the documents servicing the new legal provisions should be ensured with priority.

8. The Group of Experts, before deciding which documents are needed for the pilot tests and which ones for the new legal provisions, reviewed all documents accompanying the common CIM/SMGS consignment note, which to some extent serve also the CIM and the SMGS consignment notes. More specifically, they reviewed the following documents:

- (a) CIM/SMGS Consignment Note;
- (b) Charges Note;
- (c) Subsequent orders (CIT 7);
- (d) Circumstances preventing carriage (CIT 8) ;
- (e) Circumstances preventing delivery (CIT 9);
- (f) Notification of payment no. (CIT 12);
- (g) Authorisation to escort (CIT 13);
- (h) Wagon Label (CIT 14);
- (i) Accompanying document (CIT 18);
- (j) Formal report no. (CIT 20);
- (k) Missing goods report (CIT 21);
- (l) Notification of corrections no. (CIT 22);
- (m) CIM/SMGS Wagon List;
- (n) CIM/SMGS Container List;
- (o) CIM/SMGS Formal Report No.;
- (p) Provisional Analysis of Transit Period;
- (q) Allocation Statement;
- (r) Proof of Delivery No. (CIT 24).

9. The Group of Experts decided that for the pilot tests at least four documents should be used:

- (a) the consignment note;
- (b) the formal report;
- (c) the commercial act;
- (d) the customs document.

As for the new legal provisions, the Group of Experts decided that they should await the results of the pilot tests in order to decide the list of documents that should accompany the new legal regime.

10. The representative of CIT informed the Group of Experts that an ad hoc technical Group of Experts on CIM/SMGS would take place on the 27 October 2016, Warsaw. The secretariat of the Organization for Cooperation between Railways would participate in this ad hoc meeting and its main objective would be the preparation of a common electronic single transport document for rail transport. CIT, together with UIC/Rail Data, will continue work on developing a coordinated “maximum data message record” in electronic format for the consignment notes used in the separate legal regimes, CIM and SMGS, as well as in the combined CIM/SMGS. This will be based on the data record messages of the CIM/SMGS electronic consignment note, which contains the data sets of both the CIM and SMGS separate consignment notes. For other (electronic) consignment notes (CIM or SMGS and where necessary, national), subsets could be defined, which could be printed as required in different specimen paper consignment notes. CIT will further inform the Group of Experts on this matter at the next meeting.

IV. Monitoring results of pilot tests (agenda item 3)

Documentation: ECE/TRANS/SC.2/GEURL/2016/6, ECE/TRANS/SC.2/GEURL/2016/7

11. The Group of Experts recalled that the Inland Transport Committee (ITC) resolution (ECE/TRANS/2016/17) on Unified Railway Law encouraged railway undertakings and International Organizations for railways to test these legal provisions, whenever possible, in practice and invited the Group of Experts to monitor results of those pilot tests and prepare recommendations accordingly.

12. The Group of Experts focused their discussions on the way that these pilot tests will take place. Two options were considered: virtual and real pilot tests. The virtual tests should take advantage of the existing traffic on a specific corridor. Then, the experts representing involved railway undertakings should, for each stage of rail transportation and if needed for each article of the draft legal provisions, perform “what if” scenarios testing the applicability and the impacts of the new legal provisions. The Group of Experts agreed that both options, virtual and real tests, should be used and implemented. Most probably, the real pilot tests should follow the virtual ones.

13. The Group of Experts tried to identify possible corridors that might be used for the development of these pilot tests. The German and Russian Railways agreed that the corridor Russian Federation-Belarus-Poland-Germany should be an ideal, real flow in order to examine and evaluate the provisions of the new legal regime. Polish railways also agreed to this proposal. The experts representing the railway undertakings agreed that they should cooperate and work together in order to undertake pilot tests on this corridor. Furthermore, the representative from the Iranian Railways suggested the corridor Turkmenistan-Iran (Islamic Republic of)-Turkey could perform a second pilot test. He also mentioned that Iranian Railways will contact their colleagues in both Turkish and Turkmen Railways to

ensure their participation. The Group of Experts welcomed this proposal. In addition, the Lithuanian Railways stated that they are in consultations with other railway undertakings including the Belarusian and the Polish Railways in order to agree on developing a third pilot test. The Group of Experts also welcomed this initiative and encouraged the representative of the Lithuanian railways to conclude such an agreement.

14. The Group of Experts also considered documents ECE/TRANS/SC.2/GEURL/2016/6 and ECE/TRANS/SC.2/GEURL/2016/7 prepared by Professor Rainer Freise. The Group of Experts recalled that at their previous session, but also during the friends of the chair meeting, agreed that a summary presentation should be prepared, setting out the advantages of the new legal regime. This should allow those stakeholders who had not participated to familiarize themselves with the provisions. Document ECE/TRANS/SC.2/GEURL/2016/6 summarizes the main advantages of the new legal regime. The Group of Experts decided that no significant changes needed to be made to this document and that at this stage it was fit for purpose. They were of the opinion that they should return to this document in future in order to ensure its continued validity.

15. The Group of Experts also considered document ECE/TRANS/SC.2/GEURL/2016/7 that formulates a questionnaire/tool for railway undertakings in order to perform the pilot tests. It was understood among the Group of Experts that this questionnaire is not mandatory, not final and should serve as a guideline. However, the Group of Experts strongly recommended its use, as the reception of commonly structured replies from different stakeholders should facilitate further analysis, their comparison and the drawing of concrete conclusions. Following detailed discussions, the Group of Experts agreed that the following questions and themes should be included in the questionnaire in order to ensure concrete and integrated replies:

(a) For the real tests, how exactly will the demonstration runs take place from a legal point of view (including border and customs formalities)?

(b) While performing both (real and virtual) pilot tests, the necessary documents for the new legal regime should be considered, analysed and, if possible, prepared;

(c) The criteria for evaluating both pilot tests should be considered and agreed among all stakeholders and mainly the railway undertakings;

(d) While performing both pilot tests possible conflicts between the new legal regime and the COTIF/SMGS should be identified and listed.

16. Furthermore, and regarding the organization of the pilot tests, the Group of Experts suggested the following recommendations:

(a) Focal points from the railway undertakings should be nominated;

(b) The experience in preparing the common CIM/SMGS consignment note should be drawn upon and considered;

(c) A type of agreement (e.g. memorandum of understanding, letter of intent, etc.) between the railway undertakings may be needed and should be considered to perform the real pilot tests.

17. The Group of Experts decided that they should prepare and agree on a road (rail) map in order to ensure the successful completion of these pilot tests. This railmap should include, among others, both types of tests, concrete deadlines, as well as concrete activities. Following detailed discussions, the Group of Experts agreed the following railmap:

<i>Activities</i>	<i>Time Schedule</i>	<i>Mandate</i>
Identification of Corridors	October to December 2016	Working Party on Rail Transport (SC.2), November 2016
1. Russian Federation-Belarus-Poland-Germany		
2. Turkmenistan-Iran (Islamic Republic of)-Turkey		
3. Lithuania-Belarus-Poland ¹		
Coordination among the involved to the above mentioned corridors railway undertakings	November 2016 to February 2017	ITC, February 2017
<i>Virtual Tests²</i>		
1. Use of proposed questionnaire, customized in order to reflect corridors special needs		Executive Committee, April 2017
2. Finalization of questionnaire	15 February 2017 (deadline)	
3. Analysis of replies by secretariat	February to April (Virtual Tests)	
4. Presentation of results to the Group of Experts		
5. Option: Virtual long distance tests (e.g. Spain-China or Mongolia-Germany)	June 2017	First meeting, June 2017
<i>Real Tests</i>		
1. Decision on necessary measures (e.g. Memorandum, letter of intent, fixing the date for implementation, procedure for assessing the results, etc.)		
2. Interaction with clients and customs		

¹ To be confirmed by involved stakeholders.

² At every stage of Virtual and Real tests, the results should be assessed and evaluated.

V. Possible next steps of the work on Unified Railway Law (agenda item 4)

18. The Group of Experts had the opportunity to discuss the possible next steps of the work on Unified Railway Law. They agreed that the results of the Group of Experts, so far, are quite impressive. However, they all agreed that the pilot tests are important to evaluate the applicability and efficiency of the proposed legal provisions. The organization and implementation of these pilot tests is a time consuming process that has to be developed in a structured and commonly agreed way among the main stakeholders. The adoption of the railmap is a concrete step forward and a tool for the railway undertakings to perform these pilot tests. However, more time is needed to perform these pilot tests. The Group of Experts requested the secretariat and the Chair of the Group of Experts to report on the developments of the work of the Group of Experts and ask for the extension of the mandate of the Group of Experts for one more year, at the next session of the Working Party on Rail Transport (SC.2) on 22-24 November 2016.

VI. Other business (agenda item 5)

19. There were no proposals under this agenda item.

VII. Date of next session (agenda item 6)

20. At its forthcoming session on 22-24 November 2016, SC.2 will consider the progress made and provide guidance on possible future activities of the Group of Experts, as appropriate, for approval by the ITC in February 2017. Subject to this, details of the next sessions will be made available to stakeholders.

VIII. Summary of decisions (agenda item 7)

21. The Group of Experts agreed that the secretariat should prepare a short report on the outcome of the session.
