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**Economic Commission for Europe****Inland Transport Committee****Working Party on Rail Transport****Group of Experts towards Unified Railway Law****Nineteenth session**

Geneva, 2-4 April 2019

**Report of the Group of Experts towards Unified Railway  
Law on its nineteenth session****Contents**

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## **I. Attendance**

1. The Group of Experts towards Unified Railway Law (Group of Experts) held its nineteenth session from 2 to 4 April 2019 in Geneva. The session was chaired by Mr. A. Druzhinin (Russian Federation).
2. Representatives of the following countries participated: Azerbaijan, Croatia, Germany, Kazakhstan, Latvia, Luxembourg, Russian Federation, Slovakia, Switzerland and Turkey. Representative from the European Commission also participated.
3. Experts from the following intergovernmental organizations participated: Intergovernmental Organization for International Carriage by Rail (OTIF) and Organization for Cooperation between Railways (OSJD). Experts from the following non-governmental organization attended the session: International Rail Transport Committee (CIT).
4. Experts from the following organizations participated at the invitation of the secretariat: Deutsche Bahn AG (DB), PKP CARGO S.A. (PKP) and the University Frankfurt on Main.

## **II. Adoption of the agenda**

5. The Group of Experts adopted the agenda of its nineteenth session (ECE/TRANS/SC.2/GEURL/2019/1).

## **III. Execution of the Mandate of the Group of Experts (agenda item 2)**

6. The Group of Experts considered and discussed its tasks stemming from its detailed workplan:
  - (a) Monitoring of the finalization of necessary documents:
    - (i) DB reported on hosting a teleconference among railway undertakings which had been organized further to the request at the eighteenth session to address open issues in the ad hoc consignment note for the pilot tests. These issues have been listed in the report of the eighteenth session: ECE/TRANS/SC.2/GEURL/2018/5, point 6 (a)(ii). The teleconference, in addition to DB experts, was attended by experts from PKP. Other invited railway undertakings did not participate. The conclusions of the teleconference are provided in Informal document No.5. The experts from the two railway undertakings agreed that the open issues should be clarified with adequate instructions that typically are provided in manuals for consignment notes. They hence recommended that no further changes to the ad hoc consignment were necessary. The example on how a manual for Unified Railway Law (URL) consignment note could be prepared was given in Informal document No.5. The teleconference had not concluded whether or not further explanation on Articles 28, 32-34 was necessary;
    - (ii) The Group of Experts took note of the conclusions provided;
    - (iii) The secretariat presented ECE/TRANS/SC.2/GEURL/2019/3 containing a list of documents on the contract of carriage which may require adjustments to the provisions of URL. The secretariat informed that the list was drawn up based on information collected from experts;
    - (iv) The Group of Experts, following an extensive discussion, agreed that ECE/TRANS/SC.2/GEURL/2019/3 should be updated by adding information on (i) the relevance of a specific document in use under CIM/SMGS systems to the draft URL provisions and, if so, (ii) whether the URL provisions require any modifications to that document. The list of documents might be expanded if necessary. PKP volunteered to make such an update;
    - (v) The secretariat reported on the translation of the ad hoc consignment note from Russian into English and French. The translation has been provided in annex to the

report of the eighteenth session. At the request of the secretariat, CIT volunteered to review the translation, and where needed, to provide modifications. After such a review, these two languages should be added to the ad hoc consignment note template;

(vi) The secretariat further informed that OSJD provided translation of the ad hoc consignment note into Chinese available as Informal document No.1 and of the draft URL provisions available as Informal document No.2. The secretariat noted that box 22 in the consignment note should be changed to “Dangerous goods” and sheet six of the ad hoc consignment note should be deleted;

(vii) The Group of Experts thanked OSJD for the effort in translating both documents;

(b) Monitoring of performance of a substantial number of real pilot tests:

(i) At its previous session the Group of Experts had agreed that the URL tests should be preferably performed along four corridors:

- a. Germany-Poland-Belarus-Russian Federation,
- b. Turkey-Georgia-Azerbaijan,
- c. Turkey-Iran (Islamic Republic of)-Turkmenistan, and
- d. Austria-Slovakia-Ukraine-Russian Federation-Kazakhstan-People’s Republic of China.

(ii) The Group had requested the secretariat to invite the member States and their railway undertakings on the four corridors to perform the tests by sending a letter to Ministers of transport and directors general of the railways from the UNECE Executive Secretary. The letter was to be supported by the URL dossier (draft URL provisions, ad hoc consignment note and URL explanatory document);

(iii) The secretariat informed the Group of Experts on the steps taken to prepare the letter and the dossier, including their consultations in the Working Party on Rail Transport (SC.2). The letter was signed on 25 January 2019 and it had been disseminated through the Permanent Missions of the member States concerned to their Ministers of transport on 28 and 29 January 2019. The Ministries and the railway undertakings were copied on the electronic dissemination;

(iv) The Group of Experts welcomed the dissemination of the letters and the dossier and requested experts from the countries concerned to update on action undertaken;

(v) In this context, DB reported that no further progress was achieved for performing tests on the corridor Germany-Poland-Belarus-Russian Federation. Belarus remained unresponsive while it was unclear whether Russian Railways had received the necessary authorization, as discussed at the eighteenth session, to participate in the test. The Russian Federation told the Group of Experts that the authorization had already been in preparation by the Ministry of Transport but could not be finalized due to unforeseen circumstances, and that issuance of the authorization to the Russian Railways by the Ministry of Transport would require that it be accompanied by specific information on the route and type of cargo to be carried in the test. The Group requested the Russian Federation to issue an authorization in principle shortly and provide its copy to the secretariat. Such authorization should allow Russian Railways to formally start concrete preparations for the real pilot test. Availability of such authorization would be required also for the other partner countries to start working on the preparations of the test, for example for the determination of the route and suitable cargo. Then, once the details of the real pilot tests are established, the Russian authorities could issue the test authorization for the specific route and cargo;

(vi) Azerbaijan and Turkey reported that they had signed a memorandum of understanding involving also Georgia on 15 March 2019 which provided a basis for performing tests on the application of the URL provisions on the corridor Turkey-Georgia-Azerbaijan. They further informed about a test which had started on 22 March 2019. The test had been carried out utilizing the legally binding consignment

notes of CIM and SMGS systems and in parallel the URL ad-hoc consignment note. The latter had been duly investigated during transport. The performance of the test had allowed them to formulate several findings which have been included in Informal document No.4 submitted by Turkey. These findings address the draft URL provisions (Articles 5 and 13), possible changes to the ad hoc consignment note and the need for the additional documents to accompany the consignment note;

(vii) The Group of Experts discussed the findings one by one and concluded that:

- Amending Article 5 does not appear to be necessary to adjust it to various countries' customs procedures for the following reasons:
  - Article 5, para. 2 of URL provides for the issuance of a consignment note for each consignment. The consignment can be formed by one or several packages or one wagon load or goods in several wagons or in a whole train (e.g. loaded with coal or minerals);
  - Railways currently accept only consignment of a full wagon load. Nevertheless, CIM does differentiate between "wagon-load consignments" and "less than wagon-load consignment"/ "packages" (cf. articles 13 and 16 CIM). Article 21 of SMGS appears to be flexible;
  - Should Turkish customs procedures require special arrangements, the parties of the contract are obliged to respect them in their contract of carriage and in the consignment note (cf. Article 4 No. 2 of URL).
- Including maximum delivery periods is covered in URL under Article 13. This Article allows the parties to the contract of carriage to agree a maximum delivery time which fits to their specific needs.
- Using specific agreement models between carriers related to damage compensation like AIM in the area of CIM, which would derogate from the requirements of Articles 32 and 33 of URL is possible in line with Article 34.
- The carriers may continue to use a formal report between themselves even if Article 28 of URL asks for a notice of damage by the consignor or the consignee. The carrier's formal report can also be accepted by clients as their notice of damage if they agree with its content.
- Changes to the template of the ad-hoc consignment note should be considered by railway undertakings and their views should be provided to the secretariat before the next session on whether, for the issues listed below, there should be a specific change to the template or whether the issues can be addressed through adequate instructions in the manual:
  - Inclusion of a specific box indicating transshipment/transfer station;
  - Redesign of box 18 to match information provided in box 20 of the CIM consignment note;
  - Inclusion of new section for registering new wagon numbers (wagon numbers before and after transfer), and
  - Merging of boxes 49 to 58 and 72 to 94.
- Proposals for specific documents to accompany the URL consignment note and which may be adapted to the provisions of URL should be sent to the secretariat for their inclusion in the update to ECE/TRANS/SC.2/GEURL/2019/3.

(viii) The Group of Experts also discussed the plans for future tests. In this regard, Azerbaijan and Turkey informed about another test planned on the corridor Azerbaijan-Georgia-Turkey;

- (ix) Turkey also reported on its correspondence with the Islamic Republic of Iran aimed at performing pilot tests. It was however unclear at the time of the meeting, whether any test can be performed;
- (x) The Group of Experts welcomed the information provided by Azerbaijan and Turkey and urged other countries along the other two corridors to follow suit.
- (xi) The expert from Kazakhstan expressed the possibility of Kazakhstan being involved in the tests on all four corridors, following confirmation from the national ministry;
- (xii) Slovakia informed about its readiness to carry out the test with the partner countries along the corridor Austria-Slovakia-Ukraine-Russian Federation-Kazakhstan-People's Republic of China;
- (xiii) The Group of Experts also invited countries to consider testing the provisions of URL chapter 3 on liability. In the event that the involvement of clients would not be possible in the tests, and/or no loss or damage occurs during the tests, railway undertakings may consider performing a virtual test for this purpose;
- (c) Scope of URL and its conversion into a legally binding instrument:
- (i) Further to the request of the Group of Experts at the 18<sup>th</sup> session, the secretariat presented ECE/TRANS/SC.2/GEURL/2018/6/Rev.1 that revises ECE/TRANS/SC.2/GEURL/2018/6 by adding information on CMR and on adopted practices for modifications to legal instruments and their technical annexes through amendments as well as by correcting and updating information on CIM;
- (ii) The Group of Experts took note of the revision;
- (iii) The Group of Experts continued then its discussion on what should be the preferred content of URL (framework convention covering various railway issues versus convention on contract of carriage of goods by railway in international traffic). This discussion was initiated with an introduction of ECE/TRANS/SC.2/GEURL/2019/5, which contains impact analysis and the benefits from adopting the convention on contract of carriage of goods by railway in international traffic (convention on contract of carriage) as URL. It was submitted by the European Commission;
- (iv) The discussion was further supported with an introduction of Informal document No.3 submitted by the Russian Federation on the current functions of the railway transport Council of the member States of the Commonwealth for managing and coordinating the work of railways;
- (v) Finally, an important contribution to the discussion was provided through ECE/TRANS/SC.2/GEURL/2019/6 submitted by OTIF which showcases operational matters and administrative system based on COTIF;
- (vi) ECE/TRANS/SC.2/GEURL/2019/4, which should have been prepared by the Russian Federation and should have contained impact analysis and the benefits from adopting an URL framework convention covering various railway issues was not tabled at the nineteenth session;
- (vii) In the discussion, the Group of Experts recognized that:
- Unavailability of ECE/TRANS/SC.2/GEURL/2019/4 does not allow for a clear comparison between the options of the URL framework convention and solely convention on contract of carriage as URL.
  - ECE/TRANS/SC.2/GEURL/2019/5 is persuasive on a positive impact for railway industry and benefits from adopting the convention on contract of carriage as URL as a first step. This was supported by a large majority of experts present, in particular from Croatia, Germany, Luxembourg, Slovakia, Switzerland and Turkey who requested the continuance of work to develop a complete text for such a convention before the end of the existing mandate of the Group of Experts. In the view of the Russian Federation,

the adoption of solely the convention on the contract of carriage would not make it possible to achieve the objectives of the work of the Group, and as a result there would be no system of unified railway law. Hence, there would be no conditions for unimpeded carriage of cargo on the Eurasian continent.

- URL should address as a core element the contract of carriage of goods in international traffic by railway. Expert from the Russian Federation support however the option of URL as a framework Convention.
- Issues or relations to be regulated under URL in addition to the contract of carriage should be identified and assessed on impact and benefits before effort is invested in developing legal provisions.
- In accordance with the revised workplan (ECE/TRANS/SC.2/GEURL/2018/3/Rev.1) achieving timely milestones in the work of the Group of Experts is important, and such milestones can be achieved by working on issues successively rather than in parallel. A contract of carriage convention would be such a milestone.
- Developing a system of conventions that make up URL, where each convention addresses a specific issue and together they form URL, can be a compromise solution between solely a convention on contract of carriage as URL and the URL framework convention, such approach would allow for achieving timely milestones in the work of the Group of Experts, within the current mandate and future possible mandates.

(viii) In the context of the points above, the Group of Experts agreed to continue drafting legally-binding instrument on URL;

(ix) The Group of Experts urged the Russian Federation to submit ECE/TRANS/SC.2/GEURL/2019/4 well in advance of the next session. This document should: (i) describe the various railway issues to be covered through the URL framework convention, (ii) analyse the impact of the URL framework convention and its benefits and (iii) propose the management system for the URL framework convention. The consideration of this document should allow the Group of Experts to conclude whether or not developing the URL framework convention is a viable option;

(x) The Group of Experts further requested the secretariat to prepare two documents for the next session. One of these documents should contain a proposal for the text of a preamble for URL as a legally binding instrument. The other document should contain a text proposal for the final provisions. The text proposals would be considered by the Group of Experts at the next session in the context of the option selected for the development of URL as a legally binding instrument or instruments and be modified as necessary to best match that option;

(xi) Finally, the Group of Experts invited experts to submit their proposals for other issues that should be analysed and whether it would be beneficial to cover them in URL.

#### **IV. Other business (agenda item 3)**

7. There were no issues raised under this item.

#### **V. Date of next session (agenda item 4)**

8. The Group of Experts was informed that the next session was scheduled to be held at the Palais des Nations in Geneva from 9 to 11 July 2019.

## **VI. Adoption of the report (agenda item 5)**

9. The Group of Experts provisionally adopted the report of its nineteenth session. Requested editorial changes would be incorporated by the Chair with the support of the secretariat within two weeks to allow for the report to be available in three languages for the next session.

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