



Contribution to the 19<sup>th</sup> session of the UN ECE  
Group of Experts towards Unified Railway Law

# Options available for converting URL into a legally binding instrument – URL as contract of carriage's convention

**Submitted by the European Commission (Staff Working Document)**

## Summary of the problem definition

- **Lack of a single legal regime for rail transport operation between Europe and Asia; two different regime: COTIF (CIM) & SMGS**
- **Impediment to the growing traffic of Euro-Asia rail freight transport services**
  - 1) Unnecessary burden and constraints on business operation
  - 2) Requires re-consignment of the goods at the handover point
  - 3) Complicates cases for identifying and enforcing claims in the event of cargo loss or damage
- **Other modes benefit from harmonised contractual rules**
  - Relevant example and case-study is the Convention on the Contract for the International Carriage of Good by Road (CMR)





## Group of Experts towards URL – state-of-play

- **2010-2011: Creation of the Group of Experts ; first prospective Position Paper (ECE/TRANS/2011/3) – process of unification :**
  - 1) Short-term: MoU / General Terms and Conditions
  - 2) Medium-term: Model Regulation (non-mandatory)
  - 3) Long-term: Legally binding instrument
- **2013 (February): Joint Declaration on the promotion of Euro-Asian rail transport and activities towards unified railway law**
- **2017: Consistent set of draft legal provisions for URL based on COTIF/CIM 1999 and SMGS 2015 (carriage of goods)**

## Group of Experts towards URL – state-of-play

- **2018-2019: new extension of the mandate under new ToR**
  - a) Finalisation of necessary documents in order to perform international rail transport under URL (i.a. standard model of CN)
  - b) Performance of real pilot tests to verify the operational validity and effectiveness of the legal provisions on URL
  - c) Drafting of a document / system of document that could be adopted as a legally-binding instrument
  - d) Discuss other relevant issues related to international freight transport, for possible inclusion in the scope of URL instrument
- **17<sup>th</sup> and 18<sup>th</sup> sessions: significant progress on tasks a), b) and d) [ECE/TRANS/SC.2/GEURL/2018/5]**



# Group of Experts towards URL – state-of-play

## • **Task c) Converting URL into a legally-binding instrument**

- 18<sup>th</sup> session: reviewed possible options based on existing relevant instruments [ECE/TRANS/SC.2/GEURL/2018/6] + agreed on the stated objective to select an approach at the 19<sup>th</sup> session around two alternative options: **URL as a framework convention** or **URL as a contract of carriage convention**
- 19<sup>th</sup> session: Pros/cons/impact analysis of both alternative options to be presented by the Russian Federation and the European Commission respectively, with the view to **selecting one approach** [Annotated provisional agenda – ECE/TRANS/SC.2/GEURL/2019/1]
- 20<sup>th</sup> session (July): the group should (inter alia) draft an **advanced structured proposal** for the legally binding instrument
- 21<sup>st</sup> session: **finalisation** and drafting of a report to the (SC2) Working Party on rail transport meeting in November 2019

# URL as contract of carriage's convention

- **Objective and selected approach**

- Overall objective is to **improve efficiency** of **rail freight** transport operation between EU and Asia, in particular with China
- **Pragmatic approach**: solving existing issues for the sector = simplification of contractual / administrative arrangements
- **Step-by-step approach**: (1) focus on contracts of carriage of goods, by creating a single legal & liability regime as an optional alternative to CIM/SMGS; (2) interface law applicable only if neither CIM nor SMGS apply for the contract covering the entire journey
- **Facilitating business operation, while avoiding to create an additional regime, which could conflict or overlap with CIM and SMGS; having such a "first step" would support and catalyse the long-term objective of global harmonisation**

# URL as contract of carriage's convention

- **Basic structure of a draft "contract of carriage's convention" following the model of the CMR convention**
  - Title
  - Preamble
  - Chapter 1 – General provisions
  - Chapter 2 – Conclusion and performance of the contract of carriage
  - Chapter 3 – Liability regime
  - Chapter 4 – Settlement of claims
  - Chapter 5 – Relations between carriers
  - Chapter 6 – Final provisions





# URL as contract of carriage's convention

- **Management and administrative system**

- Subject-matter is **legal and contractual**; based on experience with the CMR convention, requires **minimal resources to administer**
- **Existing UN ECE and sector organisation is sufficient** to ensure effective management in the framework of the Inland Transport Committee (Working Party on rail transport + ad hoc expert group)
- **Involvement of relevant international organisations** and industry associations (OTIF, OSJD, UNESCAP, CIT, UIC, ITF..) is also possible through existing administrative arrangements





# URL as contract of carriage's convention

- **Expected impact (overall positive)**

- On **freight forwarders and railway undertakings** (simplification of business and transport operation, improved legal certainty, reduced delays and costs = increased competitiveness)
- On **participating States** (initial administrative cost to negotiate, sign and ratify the convention, then virtually no administrative impact and no extra costs to fund an international body – UNECE structure adequate and sufficient to manage and maintain the instrument)
- On **relevant international organisations and industry associations** (as interface law applicable, there would be no direct effect on the existing agreements in place at regional level (COTIF-CIM/SMGS))
- On the **process of harmonization of rail transport law** at global level (positive signal, catalyze, opens new opportunities)



## URL as contract of carriage's convention

- **Other relevant issues related to international rail freight transport**
  - **Dangerous goods** : a multimodal regulatory framework already exist at global level (road, rail, inland navigation) and dedicated structures and processes are in place to harmonize regulation on the Eurasian continent; no immediate need to include in the scope of URL
  - **Railway infrastructure, freight wagons and rolling stocks**: (1) various technical, industrial and political challenges = long term objective, requiring considerable amount of expertise and financial resources – bottom-up approach and thorough cost/benefit analysis needed; (2) subject-matters regulated by EU law and subject to an on-going harmonization process at EU level

## Conclusions – time to decide

- **URL as a contract of carriage's convention (interface law, voluntary) is necessary and sufficient to create a positive impact on the competitiveness of Euro-Asia rail freight transport services**
- **It would fulfill the current mandate of the Group of Experts and meet the expectations of the industry – without undermining the long term objective of harmonisation at global level**
- **All substantive provisions exist (draft legal provisions) ; the model of the CMR convention could be followed to prepare a draft structure, which could be recommended at the next session of the Working Party on rail transport in November 2019**
- **First step, properly justified, is essential ; the scope of URL could be adapted-extended at a later stage if necessary / appropriate**

THANK YOU for YOUR ATTENTION

