

Distr.: Restricted
24 September 2013

Original: English

Working Party on Rail Transport

Group of Experts towards Unified Railway Law

Sixth session

Geneva, 2–3 December 2013

Item 5 of the provisional agenda

Identification of an appropriate management system for unified railway law using the experience of international organizations in the field of the railway transport

SMGS Agreement Management System

Submitted by OSJD

The Agreement on International Goods Traffic by Rail (SMGS) became effective on November 1, 1951 and was managed by the Administration Bureau (AB) in Warsaw, Republic of Poland.

After establishment of the Organization for Co-operation of Railways (OSJD) in 1956 the OSJD Committee in Warsaw became a depository for the Agreement according to the Statutes of the OSJD approved by the Governments of the states that established the OSJD.

In accordance with Article 3 of the OSJD Statutes one of the main tasks of the OSJD comprises improvement of international transport law as well as administration of the Agreement on International Passenger Traffic by Rail (SMPS) and the Agreement on International Goods Traffic by Rail (SMGS). According to item 3 Article V of the OSJD Statutes the OSJD Committee functions as a depository not only of the OSJD Statutes but also for other contracts and agreements (including the SMGS) that are concluded within the framework of the OSJD unless otherwise specified in these documents. Therefore the OSJD Committee performs the functions specified in Article 77 of the 1969 Vienna Convention on the Law of Treaties.

In accordance with Article 38 of the SMGS and the fundamental documents of the OSJD the SMGS is managed by the OSJD Commission on Transport Law that is one of the OSJD working bodies. This Commission works at its meetings (session mode) and consists of delegations of the parties to the SMGS. Each delegation at the meeting has one vote. A meeting of the Commission has a quorum when attended by at least two-thirds of the parties to the SMGS. Proposals on changing and amending the SMGS shall be submitted to the OSJD Committee and all the parties to the SMGS not later than two months before the convening of the meeting of the Commission.

The work of the Commission connected with the adoption of changes and amendments to the SMGS is carried out by experts and includes two stages:

1. Consideration by experts of proposals for changes and amendments to the SMGS.
2. Agreement on changes and amendments to the SMGS at the meeting of the OSJD Commission on Transport Law.

At the end of each meeting of the OSJD Commission on Transport Law a Protocol shall be drawn up in two official OSJD languages (Chinese and Russian) and signed by the heads of all delegations.

Other tasks of the OSJD Commission on Transport Law:

- working out proposals on the improvement of the SMGS taking into account the development of transport law;
- preparation of legal opinions in regard to application of the SMGS on request of the OSJD bodies as well as its interpretation;
- facilitation in resolution of disputes between the OSJD member-states (on their request) in regard to application and interpretation of the SMGS.

The working body of the OSJD Commission on Transport Law in the OSJD Committee prepares and organizes the meetings on the SMGS issues.

According to Article 39 of the SMGS the draft changes and amendments agreed by the OSJD Commission on Transport Law shall be considered at the meetings of the Members of the OSJD Committee and then sent to all parties to the SMGS. The adopted changes become effective from 1 July of the following year, unless objections by any party are received within two months after distributing the changes to all parties to the SMGS.

At all the stages the principle of unanimity is used.

The OSJD Committee exercises control over OSJD activities in the period between the sessions of the Ministers Conference and the General Directors Conference meetings i.e. it functions as Secretariat. The OSJD Committee organizes meetings of the OSJD working bodies, ensures translation, copying and distribution of the documents related to the OSJD activities.
