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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Rail Transport

##### Group of Experts towards Unified Railway Law

###### Second session

Geneva, 7 October 2011

Item 5 of the provisional agenda

##### Negotiation of an Inter-Governmental Document (IGD EurAsia)

## Preparation of an Inter-Governmental Document on General Terms and Conditions for Euro-Asian rail transport corridors and on related areas of joint work

### Note by the secretariat

#### I. Mandate

1. This document contains a first draft of an Inter-Governmental Document<sup>1</sup> on General Terms and Conditions for Euro-Asian rail transport corridors and on related areas of joint work (IGD EurAsia) prepared by the secretariat in accordance with the decisions of the first session of the Group of Experts towards unified railway law (ECE/TRANS/SC.2/GEURL/2011/4, paras. 19–37) and following consultations with members of the group. IGD EurAsia will constitute the policy framework for General Terms and Conditions for Euro-Asian Rail Transport Contracts (GTC EurAsia) to be prepared by the railway industry and experts from the Organization for Cooperation between Railways (OSJD) and the International Rail Transport Committee (CIT) in cooperation with the Intergovernmental Organization for International Carriage by Rail (OTIF).

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<sup>1</sup> Decision on the designation and title of the Inter-Governmental Document is yet to be taken (see report of the Group of Experts on its first session (ECE/TRANS/SC.2/GEURL/2011/4, para. 37). Given that the document is intended to accommodate a public-private partnership between governmental and non-governmental stakeholders, the Group of Experts may wish to reconsider the use of the term “intergovernmental” in the final document.

2. IGD EurAsia would underline the political support of concerned Governments for the acceptance of GTC EurAsia. It would contain guiding principles for the correct and transparent use of international rail transport contracts in the pan-European region and along Euro-Asian transport corridors and would facilitate intermodal transport operations, including ferry services.

3. IGD EurAsia could pave the way for efficient and seamless Euro-Asian railway transport services on the basis of a single transport contract, a single consignment note and a single liability regime compatible with the provisions of the Convention concerning International Transport by Rail (COTIF)/Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (CIM) and the Agreement on International Railway Freight Transportations (SMGS), as well as relevant European Union (EU) legislation and applicable national rules and regulations (ECE/TRANS/SC.2/GEURL/2011/4, paras. 10–12).

4. The Group of Experts may wish to consider and finalize the present draft IGD EurAsia and forward it for further examination and approval to the UNECE Working Party on Rail Transport (SC.2) at its session to be held on 3 and 4 November 2011. The alternative wordings or the parts of the text, which did not meet the approval of all the experts, are presented in the square brackets.

5. The Group of Experts may take into account the draft provisions of the General Terms and Conditions for Euro-Asian transport contracts (GTC EurAsia) prepared by the International Rail Transport Committee (CIT) (ECE/TRANS/SC.2/GEURL/2011/7). It is understood that the Group of Experts will only prepare and negotiate the document as set out below and not the GTC EurAsia. However, in line with its mandate provided in the UNECE position paper, the Group of Experts should review the work undertaken by OSJD and CIT on GTC EurAsia and provide direction, as appropriate (ECE/TRANS/2011/3, para. 35).

## **II. Draft [Inter-Governmental] Document on General Terms and Conditions for Euro-Asian rail transport corridors and on related areas of joint work**

We,

- Representatives of: [alphabetic listing of member States],
- Representatives of competent international intergovernmental organizations: [...],
- [Representatives of non-Governmental organizations: [...],]
- [Representatives of railways: [...],]
- [Representatives of shippers/forwarding industry: [...],]

Meeting in [...] on [...] 2012 under the auspices of the United Nations Economic Commission for Europe (UNECE),

RECOGNIZING the potential for efficient Euro-Asian rail transport operations due to the increase in trade between Europe and Asia as well as with Central Asia, the Caucasus countries and the Indian sub-continent,

NOTING the completion of important rail infrastructure projects along Euro-Asian transport corridors,

CONVINCED that long distance Euro-Asian rail transport operations may significantly increase, if fast, reliable and seamless rail and intermodal transport services are developed along the Euro-Asian land bridge,

AWARE that Euro-Asian rail transport operations involve and transit many countries, all members of UNECE and UNESCAP, with different national railway systems and structures as well as different legal regimes governing international rail transport, i.e. the Convention concerning International Transport by Rail (COTIF)/Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (CIM) and the Agreement on International Railway Freight Transportations (SMGS),

BEARING IN MIND the progress achieved by the other transport modes in harmonizing and simplifying their legal framework, making it imperative to level the playing field between these modes of transport and rail transport,

CONSCIOUS that different legal railway regimes along Euro-Asian transport corridors increase costs, reduce competitiveness and impede the development of efficient rail transport operations,

WELCOMING the Common CIM/SMGS consignment note as a first step to facilitate international rail freight transport along Euro-Asian transport corridors,

RECOGNIZING however that further steps must be taken to ensure efficient negotiation and conclusion of rail transport contracts along these corridors,

REFERRING to the vision and strategy enshrined in the UNECE position paper towards unified railway law in the pan-European region and on Euro-Asian transport corridors adopted by the UNECE Working Party on Rail Transport on 19 November 2010 and approved by the UNECE Inland Transport Committee on 3 March 2011 (ECE/TRANS/2011/3),

CONVINCED that in order to progress towards that goal all stakeholders, including Governments, international organizations, state railway organizations and the private transport operators must cooperate and commit to a set of common objectives, legal principles and operational rules,

WISHING to offer a flexible international framework for such public-private partnership,

1. **RECOMMEND** the use of the General Terms and Conditions for Euro-Asian Rail Transport Contracts (GTC EurAsia) developed by the railway industry and experts from OSJD and CIT in cooperation with OTIF in line with the policy principles, as contained in Annex I of this document;
2. **AGREE TO** the joint work areas to facilitate Euro-Asian rail freight transport as set out in Annex II of this document;
3. **INVITE** the UNECE Working Party on Rail Transport (SC.2) to monitor the use of GTC EurAsia as well as the progress achieved in the joint work areas to facilitate Euro-Asian rail transport.

The IGD is established in a single original copy of which the English, French and Russian texts are equally authentic.

## SIGNATURES

## **Draft Annex I to the [Inter-Governmental] Document on General Terms and Conditions for Euro-Asian rail transport corridors and on related areas of joint work**

### **Policy Principles for Application of the General Terms and Conditions for Euro-Asian Rail Transport Contracts (GTC EurAsia)**

#### **PRINCIPLE 1: Objective of GTC EurAsia**

The objective of GTC EurAsia is to facilitate international railway transport by establishing uniform contractual relationship between the railway undertakings and their customers. By doing so they will contribute towards [harmonization of the railway law] [establishment of the unified legal framework] and increased legal security in the pan-European region and on Euro-Asian rail transport corridors and/or at global level for the purpose of levelling the playing field between all modes of transport.

#### **PRINCIPLE 2: Scope of GTC EurAsia**

GTC EurAsia constitute [a model for establishing] [general conditions which may govern] contractual relations among all parties that conclude rail transport contracts under both the COTIF/CIM and SMGS regimes.

#### **PRINCIPLE 3: Contractual Nature of GTC EurAsia**

The application of GTC EurAsia into contracts of carriage shall be optional and only when there is mutual agreement by the parties.

#### **PRINCIPLE 4: Content of GTC EurAsia**

GTC EurAsia shall contain provisions that provide for the following contractual elements under the COTIF/CIM Convention and the SMGS Agreement:

- (a) Single contract of carriage;
- (b) Single consignment note;
- (c) Single liability regime.

#### **PRINCIPLE 5: Commitment to GTC EurAsia**

Governments and public authorities responsible for rail transport will assist in the application of GTC EurAsia and will promote their use in their countries.

#### **PRINCIPLE 6: Conformity [Compatibility] of GTC EurAsia**

GTC EurAsia is based on and is in line with relevant provisions of the COTIF/CIM Convention and the SMGS Agreement, relevant legislation applicable in the European Union and applicable national rules and regulations as of date of signature of this document.

Upon entry into force of modifications to the COTIF/CIM Convention and the SMGS Agreement, relevant legislation applicable in the European Union and applicable national rules and regulations, GTC EurAsia will be amended accordingly, if needed.

**PRINCIPLE 7: Geographical Coverage of GTC EurAsia**

GTC EurAsia shall [cover] the entire railway network [open to international traffic] on the territory of the countries having signed this document [unless specific notifications are submitted by a country upon signature of this document].

**[PRINCIPLE 8: Scope of application of GTC EurAsia**

GTC EurAsia shall be applicable for [cover] all types of rail freight transport operations and types of cargo shipped by rail a long as required mandatory rules and regulations are complied with.]

## **Draft Annex II to the [Inter-Governmental] Document on General Terms and Conditions for Euro-Asian rail transport corridors and on related areas of joint work**

### **Joint work areas to facilitate Euro-Asian rail transport**

The signatories of this document endeavour to address jointly and on a priority basis, in line with their responsibilities and duties, the following work areas to facilitate Euro-Asian rail transport:

#### **WORK AREA 1: Provision of necessary infrastructure and loading equipment**

[Provide necessary infrastructure] [Address with remedial proposals the problems of access to necessary infrastructure], such as warehouses, container freight stations and logistics centres offering adequate loading and unloading facilities, servicing cargo for all destinations along Euro-Asian rail transport corridors, as identified by the Euro-Asian Transport Linkages (EATL) project.

#### **WORK AREA 2: Provision of adequate rolling stock and equipment**

Provide adequate rolling stock [Address with remedial proposals the issue of adequate rolling stock and equipment] to allow for smooth operation of rail services in line with agreed time schedules, including the necessary equipment for transshipment operations.

#### **[WORK AREA 3: Transparent, market oriented and harmonized commercial rail policies**

Encourage commercial policies to ensure competitiveness of rail services along Euro-Asian transport corridors routes by developing comparable [tariff frameworks] [tariff indicators] (i.e. per container or per tonne/kilometre) applicable within harmonized time intervals (i.e. six months) free of hidden costs.]

#### **[WORK AREA 4: Development of scheduled rail services**

Support the development of rail services, particularly block trains that are openly offered to interested shippers and forwarders in a non-discriminatory way.]

#### **[WORK AREA 5: Time Schedules**

Create, maintain, operate and evaluate harmonized time schedules for specific points of origin and points of destination for both scheduled services (i.e. block trains) or isolated cargoes (i.e. single container), creating reliability and predictability of rail transport operations.]

#### **WORK AREA 6: Electronic data processing**

Encourage the introduction of electronic data processing and use of electronic transport documentation, such as the electronic CIM/SMGS consignment note, for Euro-Asia rail transport operations [in line with the relevant regional and international technical innovation and deployment strategies].

**WORK AREA 7: Efficient and internationally harmonized border crossing procedures**

Enhance the efficiency of border crossing operations according to international standards and implement, in particular, the provisions of the International Convention on the Harmonization of Frontier Controls of Goods (1982) and its new Annex 9 on rail transport, with special emphasis on the facilitation of transit operations by block trains.

**WORK AREA 8: Use of the Common CIM/SMGS Consignment Note**

Promote the use of the Common CIM/SMGS consignment note as a custom and/or bank document.

**WORK AREA 9: Cargo insurance**

Ensure that no additional insurance is requested by national customs authorities other than that foreseen in respective international agreements. Work together on possibilities to insure the cargo for the entirety of the rail transport operation, especially for the transport of high-value goods.

**WORK AREA 10: Transport agents — representatives**

Ensure that forwarding companies or other transport auxiliaries involved in rail transport operations are not required to have representatives in transit countries.

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