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Group of Experts towards Unified Railway Law

Second session

Geneva, 7 October 2011

Report of the Group of Experts on its second session

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Attendance.....	1–5	2
II. Chair.....	6	2
III. Adoption of the agenda (agenda item 1)	7–9	2
IV. Adoption of the report of the first session (agenda item 2)	10–12	3
V. Information from the EU and international organizations on their activities, including progress made on the General Terms and Conditions for Euro-Asian transport contracts (GTC EurAsia) (agenda item 3, as amended)	13–18	4
VI. Negotiation of an Inter-Governmental Document (IGD EurAsia) (agenda item 5)	19–29	5
VII. Experiences with rail operations in the pan-European region and along Euro-Asian transport corridors (agenda item 6)	30	7
VIII. Other business (agenda item 7)	31–32	7
A. Duration of the meetings of the Group of Experts	31	7
B. Statement of the Economic Cooperation Organization (ECO)	32	7
IX. Date of next session(s) (agenda item 8)	33–34	8
X. Summary of decisions (agenda item 9)	35	8
 Annexes		
I. Preparation of an Inter-Governmental Document on General Terms and Conditions for Euro-Asian rail transport corridors and on related areas of joint work.....		9

II. Preparation of an Inter-Governmental Document on steps for developing Euro-Asian rail transport.....	16
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I. Attendance

1. The Group of Experts towards unified railway law held its second session on 7 October 2011 in Geneva.
2. The session of the Group of Experts was attended by experts from the following countries: Belgium; Czech Republic; France; Germany; Kazakhstan; Netherlands; Poland; Russian Federation and Turkey. An expert representing the European Union (DG MOVE) also attended.
3. Experts from the following intergovernmental and non-governmental organizations participated: Organization for Cooperation between Railways (OSJD), Intergovernmental Organization for International Carriage by Rail (OTIF), Economic Cooperation Organization (ECO) and International Rail Transport Committee (CIT).
4. Experts from the following railways and industry groups participated: Deutsche Bahn (DB), French Railways (SNCF), Kazakhstani Railways (Kazakhstan Temir Zholy), Latvian Railways (LDZ), Russian Railways (RZD), Turkish State Railways (TCDD) and Plasko JSC.
5. Mrs. Eva Molnar, Director of the UNECE Transport Division, opened the session. She welcomed the increasing participation of UNECE member States and railways and informed the group that the UNECE secretariat was actively pursuing awareness-raising activities and consultations on unified railway law both within and outside the United Nations system. She expressed appreciation for the active participation of experts and urged them to agree on concrete recommendations for the forthcoming sixty-fifth session of the Working Party on Rail Transport (SC.2).

II. Chair

6. In accordance with the decision of the first session of the Group of Experts (ECE/TRANS/SC.2/GEURL/2011/4, para. 6) Mr. A. Druzhinin (Russian Federation) chaired the meeting.

III. Adoption of the agenda (agenda item 1)

7. The Group of Experts considered the agenda prepared by the secretariat (ECE/TRANS/SC.2/GEURL/2011/5 and Corr.1). The representative of OSJD proposed to delete agenda item 4 "Review of work on General Terms and Conditions for Euro-Asian transport contracts (GTC EurAsia)", as it seemed to be premature to hold substantive discussion on GTC EurAsia. He referred to the results of an OSJD consultative meeting on 9 June 2011 where experts of several OSJD member States felt that the UNECE Group of Experts should focus on a policy declaration on unified railway law rather than on provisions of GTC EurAsia.
8. The Group of Experts recalled that the objective of agenda item 4 was to review the work of railway experts on the GTC EurAsia in order to ensure that negotiation of the mandated Inter-Governmental Document (IGD EurAsia) by the Group of Experts could be based and was in line with the provisions of GTC EurAsia. The Group of Experts also recalled that this approach was in line with the UNECE position paper towards unified

railway law for Euro-Asian transport corridors (ECE/TRANS/2011/3) (hereafter, the Position Paper) adopted by the Inland Transport Committee as well as with the work plan of the Group of Experts adopted at its first session (ECE/TRANS/SC.2/GEURL/2011/2). The Group of Experts agreed to consider the state of the work on GTC EurAsia under agenda item 3.

9. The Group of Experts, thus, adopted the agenda as contained in document ECE/TRANS/SC.2/GEURL/2011/5 with the following modifications:

(a) Rename agenda item 3 to read: "Information from the European Union (EU) and international organizations on their activities, including progress made on the General Terms and Conditions for Euro-Asian transport contracts (GTC EurAsia)";

(b) Delete agenda item 4.

IV. Adoption of the report of the first session (agenda item 2)

10. The Group of Experts adopted the report of its first session, as contained in document ECE/TRANS/SC.2/GEURL/2011/4, subject to the following corrections:

(a) Delete references to OSJD in paragraphs 13 and 14, given that OSJD had not yet taken part in the work on GTC EurAsia;

(b) Add a footnote at the end of paragraph 14, indicating that the time schedule for the work on draft Inter-Governmental Document (IGD EurAsia) was subject to adjustments.

11. The Group of Experts was informed about communications received from the Russian Federation and Turkey regarding the corrigenda to the UNECE position paper and the agenda for the first session of the Group (ECE/TRANS/2011/3/Corr.1 and ECE/TRANS/SC.2/GEURL/2011/1/Corr.1). The corrigenda, issued at the request of Turkey, had replaced the term "Bosporus" used in both documents by the term "Istanbul Strait". Referring to its communication to the UNECE secretariat on 24 June 2011, the representative of the Russian Federation stated that the term "Istanbul Strait" did not appear in any international legal instrument and was thus unknown in international practice. The Russian Federation, therefore, considered that the term "Bosporus Strait" should be retained in both documents, as this term was used in the Montreux Convention Regarding the Régime of the Straits of 1936 and was widely recognized by international law.

In response to the communication of the Russian Federation, the representative of Turkey made the following statement:

"The use of the term "Turkish Straits" or "Straits of Istanbul and Çanakkale" has historical, political and legal justification, such as; respect for past and present general practice, due regard to Turkey's sovereign rights over this particular area and to its jurisdiction according to the established principles of international law. There is also a considerable accumulation of agreements and principles developed by the United Nations concerning the standardization of geographical names which states inter alia that when a geographical feature is completely within sovereignty of a country then official name given by the authorized national organization should be used in international documents. Concerning the terminology in the 1936 Montreux Convention, it is useful to remind that Montreux was enacted only with the purpose of regulating navigation through the Straits. Turkey has been strictly implementing this Convention for 75 years and intends to do so in the future.

Beyond this purpose, however, Montreux does not purport to establish names for localities or States Parties for that matter. Otherwise, we would have been forced

to refer to some signatory countries with names such as the Kingdom of Bulgarians, the King of the Hellenes, the Emperor of India or the Central Executive Committee of the Union of Soviet Socialist Republics without paying attention to the fact that only States themselves are authorized to determine how they are called and governed.

In fact, the term "Turkish Straits" or "Straits of Istanbul and Çanakkale" have been continuously used in many international documents, including IMO and NATO resolutions and documents. A case in point is the Turkish Straits Regulations registered within IMO in 1994 and again in 1998."

12. The Group of Experts agreed that the decision on the term to use with respect to this strait was outside the scope and mandate of the group. Moreover, the term in question was not included in the future IGD EurAsia. Therefore, the Group of Experts agreed to take note of the positions of the Russian Federation and Turkey and asked the secretariat to reflect both positions in the report of the meeting.

V. Information from the EU and international organizations on their activities, including progress made on the General Terms and Conditions for Euro-Asian transport contracts (GTC EurAsia) (agenda item 3, as amended)

13. The Group of Experts invited Governments, the European Commission (DG Move), international organizations and the industry to report on recent activities and plans for future work in the field of national, regional and international railway law.

14. The expert of OTIF highlighted the following developments:

(a) Accession of the European Union (EU) to the Convention concerning International Transport by Rail (COTIF) on 23 June 2011 entering into force on 1 July 2011;

(b) Accession of Armenia to COTIF, bringing the number of Contracting Parties to the convention to 47, and the current accession negotiations with Pakistan;

(c) Forthcoming session of the OTIF Rail Facilitation Committee (Bern, 13–14 October 2011);

(d) Consideration of UNECE's work towards unified railway law by the highest decision-making body of OTIF (the General Assembly) and the expression by the General Assembly of full support to this work.

15. The expert from OSJD reported on the relevant activities of OSJD, including:

(a) Consultative meeting on activities of the UNECE Group of Experts, organized by OSJD on 9 June 2011 in Warsaw: The meeting was attended by the experts from Belarus, Kazakhstan, Latvia, Lithuania, Mongolia, Poland, Russian Federation, Romania and Ukraine, as well as OTIF and CIT. It took note of the planned work of the UNECE Group of Experts and expressed support for work on a political document on unified railway law. As the result, the activities of the UNECE Group of Experts towards unified railway law was included in the agenda of the 39th OSJD Ministerial meeting;

(b) 39th OSJD Ministerial meeting (Beijing, 6–8 September 2011): The OSJD Ministers took note of information about UNECE's work towards unified railway law, invited member States to take an active part in this work and approved the participation of the OSJD Committee in the Group of Experts, providing the OSJD with the necessary mandate to carry out work on unified railway law under the auspices of UNECE;

(c) Work on a new OSJD convention on direct railway connections: The draft text of the revised convention was almost ready and currently negotiations are held with the European Union, who coordinates the position of EU member States on this issue.

16. The expert from Turkey informed the group that information on UNECE's work towards unified railway law had been disseminated to rail enterprises of the South-East region and that all the resulting documents, notably GTC EurAsia, would be forwarded to the railways for practical use.

17. The secretariat reported on its work on promoting the work towards unified railway law. Information on UNECE's work in this area was presented during the sixty-fourth session of the UNECE (Geneva, 29–31 March 2011) and during the recent OSCE Economic and Environmental Forum on "Promotion of common actions and co-operation in the OSCE area in the fields of development of sustainable energy and transport" (Prague, 14–16 September 2011). The secretariat also informed the group of its regular exchange of information with UNESCAP on these activities to ensure UNESCAP's involvement and contributions.

18. The expert from CIT presented a first draft of GTC EurAsia, prepared as a basis for future collaboration with OSJD and OTIF (ECE/TRANS/SC.2/GEURL/2011/7). The group noted that this draft had not yet been approved by national experts, OSJD and OTIF. The expert from the EU remarked that the first sentence of paragraph 2 of Section 1 "Validity" of the draft, which stated that "Unless otherwise provided by GTC EurAsia, national law shall apply", seemed to be in contradiction with the contractual character of GTC EurAsia. The expert from the Russian Federation considered that the GTC provisions and, notably, the provision on the use of international arbitration in Section No. 23 "Assertion of Rights" required further consideration by legal experts. Based on this preliminary exchange of opinions, the Group of Experts concluded that in-depth legal discussions of the draft GTC provisions would still be necessary. It urged CIT to hold the necessary consultations and working meetings with the railway sector and other stakeholders to finalize the document in due course.

VI. Negotiation of an Inter-Governmental Document (IGD EurAsia) (agenda item 5)

19. The Group of Experts discussed the scope of the draft Inter-Governmental Document (IGD EurAsia) on GTC EurAsia. It took note of two documents: A document prepared by the secretariat in accordance with the UNECE Position Paper and following up on the decisions made at the first session of the Group of Experts (ECE/TRANS/SC.2/GEURL/2011/6) and a document prepared by experts from the Russian Federation (ECE/TRANS/SC.2/GEURL/2011/8) proposing an intergovernmental document containing steps for the development of unified railway law and Euro-Asian rail transport.

20. The expert of the Russian Federation introduced his proposal (ECE/TRANS/SC.2/GEURL/2011/8) that had been prepared in consultation with OSJD. He recalled the results of an OSJD consultative meeting on 9 June 2011 where, several OSJD member States felt that priority should be given to a UNECE policy document on unified railway law that secured a high level political support in order to work out detailed provisions of such unified legislation. Such a policy document, to be adopted either as a Ministerial declaration or a UNECE resolution, would summarize the goals of the work towards unified railway law and would refer to the concrete work already carried out by the competent intergovernmental organizations. While utmost importance was attached to harmonization of the two legal systems (SMGS/OSJD and COTIF CIM/CIV/RID), the

draft document also called on its signatories to address broader issues, such as appropriate institutional and management structures, cooperation on transport security, development of unified principles for the electronic exchange of documents and cooperation on establishing a unified technical strategy. In accordance with the mandate provided by the UNECE Position Paper and the discussions held during the first session of the Group of Experts, the draft also contained a reference to GTC EurAsia. Specifically, participating States were to be informed of work on the preparation of GTC EurAsia and would recognize that GTC EurAsia could be used as a basis for elaborating the relevant parts of unified transport law for Euro-Asian rail transport operations.

21. The secretariat introduced document ECE/TRANS/SC.2/GEURL/2011/6 containing a draft IGD EurAsia prepared in accordance with the decisions taken at the first session of the Group of Experts. The draft included:

(a) Preamble (based on the results of discussions during the first session (ECE/TRANS/SC.2/GEURL/2011/6, paras. 22–23);

(b) Substantial provisions, i.e.:

(i) Policy statements on GTC EurAsia (as identified during the first session (ECE/TRANS/SC.2/GEURL/2011/6, paras. 22–23)) which were regrouped in Annex 1, entitled "Policy Principles for Application of the General Terms and Conditions for Euro-Asian Rail Transport Contracts (GTC EurAsia)";

(ii) Economic/operational provisions (drafted in consultation with the members of the Group, following the Group's decision to include them in the document (ECE/TRANS/SC.2/GEURL/2011/6, paras. 30–31), regrouped in Annex II entitled "Joint work areas to facilitate Euro-Asian rail transport";

(c) Final provisions and signatures.

22. In the ensuing in-depth discussions, the Group of Experts was not able to decide which of the two draft documents should be retained as the basis for discussions. It also did not reach agreement on the scope of the provisions of IGD EurAsia to be retained.

23. The Group did acknowledge the merits of document ECE/TRANS/SC.2/GEURL/2011/8 and expressed appreciation for the policy approach taken. At the same time, several experts raised a number of concerns with the text proposed, such as:

(a) The proposed text emphasized the required political support for work on unified railway law. However, such the political will for such an undertaking at the pan-European level had already been expressed by the UNECE Inland Transport Committee and has been enshrined in the UNECE Position Paper that provided a vision and a concrete strategy with a three-step approach in the work towards unification of international the unified railway law (ECE/TRANS/2011/3);

(b) Several issues, raised in the proposed draft (rail passenger transport, institutional and management issues, transport security, etc.) laid outside of the present mandate of the Group of Experts, set out in its terms of references and its work plan (ECE/TRANS/SC.2/GEURL/2011/2);

(c) The proposed text did not contain detailed policy statements on GTC EurAsia, as discussed during the first session of the group (declaration of conformity of GTC with the existing international, EU and national legislation, contractual nature, etc.).

24. Some experts pointed out that, due to consultations that had been held prior to the meeting on the provisions of IGD EurAsia based on the report of the first session and on the first draft of IGD EurAsia, they were not yet ready to comment in substance on the proposals contained in document ECE/TRANS/SC.2/GEURL/2011/8.

25. In the light of these elements, many experts expressed their preference to continue discussions on IGD EurAsia based on document ECE/TRANS/SC.2/GEURL/2011/6, which was in the line with the mandate of the Group of Experts and did reflect the outcome of the discussions held at its first session on 6 May 2011.

26. Other experts considered that document ECE/TRANS/SC.2/GEURL/2011/6 did not constitute a good basis for further discussions for a number of reasons, such as:

(a) It contained extensive references to GTC EurAsia while, at present, no suitable draft of GTC EurAsia existed;

(b) The focus on GTC EurAsia was not justified as GTC EurAsia were limited to private law thus limiting the role of Governments. In addition, the focus on contractual arrangements among railways unnecessarily limited the scope of the proposed intergovernmental document and did not reflect the priorities in rail transport in a number of UNECE member States.

27. Several experts considered that with additional time and possibly with the assistance of volunteers, an advanced proposal could be prepared, based on the provisions of the two documents. Some delegations expressed their strong preference for having just one working document in the future to ensure efficiency in the discussions.

28. Taking into account the positions expressed, the Group of Experts acknowledged that it would not be able to reach agreement on the way to proceed as well as on substantive provisions within the very limited time originally foreseen for the preparation of IGD EurAsia. Therefore, the Group decided to inform the sixty-fifth session of the Working Party on Rail Transport (SC.2) about the current state of discussions and to request further guidance from the Working Party.

29. The Group of Experts invited experts to submit further comments or clarifications on their position within two weeks following its session. The group also asked the secretariat to annex the two draft proposals for an IGD EurAsia to the report of its second session and forward this report to SC.2.

VII. Experiences with rail operations in the pan-European region and along Euro-Asian transport corridors (agenda item 6)

30. Due to lack of time, the Group of Experts could not exchange information on latest experiences with rail transport operations along Euro-Asian transport corridors.

VIII. Other business (agenda item 7)

A. Duration of the meetings of the Group of Experts

31. Several experts stated that the 1-day duration of the sessions of the Group of Experts was not sufficient to productively discuss the issues related to unified railway law and expressed their preference for at least 2-day meetings.

B. Statement of the Economic Cooperation Organization (ECO)

32. The representative of ECO informed the group about his organization's strong interest in and support to UNECE's work towards the unified railway law. He also invited the members of the group to attend the ECO Conference on Logistics and Transit Development in the ECO Region (Bandar-e-Abbas (Islamic Republic of Iran), 17–19 October 2011).

IX. Date of next session(s) (agenda item 8)

33. The next session of the UNECE Working Party on Rail Transport (SC.2) will be held at Geneva on 3 and 4 November 2011. The next session of the UNECE Inland Transport Committee (ITC) is planned to be held from 28 February to 1 March 2012.

34. The preliminary dates for the next meetings of the Group of Experts towards unified railway law, subject to decisions of the Working Party on Rail Transport (SC.2) and the Inland Transport Committee (ITC) are as follows:

2–3 July 2012	Third session of the Group of Experts towards unified railway law (to be confirmed)
19 October 2012	Fourth session of the Group of Experts towards unified railway law (to be confirmed)

X. Summary of decisions (agenda item 9)

35. The Group of Experts agreed that the secretariat will establish a short report on the outcome of the session for circulation among participants. Comments made would be incorporated by the secretariat for adoption by the Group of Experts at its next session.

Annex I

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 Document¹ 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).

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.

¹ 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.

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.

Annex II

Preparation of an Inter-Governmental Document on steps for developing Euro-Asian rail transport

Submitted by the Russian Federation

I. Mandate

1. This document contains a proposal by the Russian Federation on an inter-governmental document on steps for the development of rail transport in Euro-Asian space. The Russian Federation considers that such a document could be adopted either as a ministerial declaration (Part I) or a Resolution of the UNECE Working Party on Rail Transport (Part II).
2. In preparing the proposal, the Russian Federation took into account the decisions of the first session of the UNECE Group of Experts towards unified railway law (ECE/TRANS/SC.2/GEURL/2011/4, paras. 19–37) and the results of its consultations with the experts from the Organization for Cooperation between Railways (OSJD).
3. The Group of Experts may wish to consider the proposed text in preparing the final text of the Inter-Governmental Document on General Terms and Conditions for Euro-Asian rail transport corridors (IGD EurAsia), as mandated by the UNECE position paper on unified railway law in the pan-European region and on Euro-Asian transport corridors (ECE/TRANS/2011/3). It is recalled that the draft IGD EurAsia prepared by the secretariat in accordance with the decisions of the first session of the Group of Experts towards unified railway law and following consultations with members of the group is published in ECE/TRANS/SC.2/GEURL/2011/6.

II. Draft Joint Declaration of the Ministers of Transport of the Euro-Asian States on steps for developing Euro-Asian rail transport

We, Ministers of Transport, representatives of the following Euro-Asian States [...],

Meeting in on

Taking into account the necessity to develop Euro-Asian rail transport,

Recognizing the importance of safe and efficient rail transport operations in the context of economic globalisation,

Intending to unify the principles and the legal basis for the Euro-Asian rail transport operations,

Considering that the development of transport links would increase the goods turnover between States and ensure the right of free circulation of their citizens,

Willing to confirm the importance and necessity of further cooperation in the area of rail transport,

Aiming to favour the development of enterprise and business activity in rail transport,

Noting with satisfaction the cooperation between intergovernmental rail transport organizations (Intergovernmental Organization for International Carriage by Rail (OTIF) and Organization for Cooperation between Railways (OSJD)), as well as the organizations active in freight and passenger transport, seeking to establish legal framework for safe and effective Euro-Asian rail transport operation,

DECLARE THE FOLLOWING

1. The States, which participate in the present declaration (hereafter, the Parties), shall continue developing and strengthening cooperation in the area of the Euro-Asian rail transport.
2. The Parties observe that the main bulk of the Euro-Asian rail passenger and goods transport in the East-West exchange is carried out under two legal systems for passenger and freight transport (SMGS/OSJD on one side, and COTIF (CIM/CIV/RID) on the other), the existence of which ensures the organization of international transport of goods by rail.
3. The Parties acknowledge the positive role of the intergovernmental organizations OTIF and OSJD in regulating the activities of Euro-Asian rail transport.
4. The Parties note with satisfaction that in the recent years under the auspices of the intergovernmental organizations OTIF and OSJD, a full-fledged cooperation between the transport undertakings of the States, which are members of these organisations, was established. The CIM/SMGS common consignment note, used in the transport of goods, the CIM/SMGS wagon and container note and the CIM/SMGS commercial act are examples of this cooperation. The work on the elaboration and implementation of these documents was carried out expeditiously. The use of these documents in transport operations significantly facilitates the rail transport procedures in the East-West exchange.
5. Taking into account the ongoing reform of rail transport and the structural modifications of the national rail companies, the emergence of private providers of transport services and the development of transport technologies, the Parties recognize the necessity to further coordinate Euro-Asian rail transport development.
6. The Parties acknowledge that, in the light of the existing differences in political systems and economic conditions applicable to rail operations in different countries, the establishment of appropriate institutional and management structures – ensuring a balance of interests for Governments and enterprises in various countries – is an important issue in the elaboration of the unified transport law for Euro-Asian rail transport. In elaborating the position on the appropriate institutional structure, the Parties shall use the existing experience of the intergovernmental organizations OTIF and OSJD, the experience of the railway organizations, as well as the experience and decision-making process of the organizations dealing with other modes of transport (air and maritime transport).

The upmost and foremost importance in the development of rail transport is given to harmonizing the two legal systems (SMGS/OSJD on one side, and COTIF (CIM/CIV/RID) on the other) and the ensuing creation of a unified transport law for Euro-Asian rail transport. A list of international agreements, required for creating and implementing unified transport law for the Euro-Asian rail transport, shall be developed in the course of the work.

Cooperation between Parties also needs to address the following issues:

- (a) Cooperation on transport security;

- (b) Development of unified principles for the electronic exchange of documents;
 - (c) Cooperation on establishing unified technical strategy.
7. The Parties agree that the work on developing the principles of unified transport law for Euro-Asian rail operations shall be carried out under the auspices of the UNECE. The Parties shall provide a comprehensive assistance in preparing concrete decisions as well as political support for this work in their countries.
 8. The Parties take note of information on preparing the General Terms and Conditions for Euro-Asian transport contracts (GTC EurAsia) and Conditions for Euro-Asian transport contracts (GTC EurAsia). The draft GTC EurAsia may be used as a basis for elaborating the relevant parts of unified transport law for Euro-Asian rail operations.

III. Draft Resolution of the Working Party on Rail Transport on steps for strengthening cooperation on Euro-Asian rail transport

Resolution No. [...] of the Working Party on Rail Transport

Adopted on November 2011,

The Working Party on Rail Transport,

Taking into account the necessity to develop Euro-Asian rail transport,

Recognizing the importance of safe and efficient rail transport operations in the context of economic globalisation,

Intending to unify the principles and the legal basis for the Euro-Asian rail transport operations,

Considering that the development of transport links would increase the goods turnover between States and ensure the right of free circulation of their citizens,

Willing to confirm the importance and necessity of further cooperation in the area of rail transport,

Aiming to favour the development of enterprise and business activity in rail transport,

Noting with satisfaction the cooperation between intergovernmental rail transport organizations (Intergovernmental Organization for International Carriage by Rail (OTIF) and Organization for Cooperation between Railways (OSJD)), as well as the organizations active in freight and passenger transport, seeking to establish legal framework for safe and effective Euro-Asian rail transport operation,

UNANIMOUSLY AGREES on the following measures, which the interested Governments (hereafter, the Parties) are invited to carry out in the field of the Euro-Asian rail transport development:

1. The Parties are invited to continue developing and strengthening cooperation in the area of the Euro-Asian rail transport, on the basis of the following:
 - (a) The main bulk of the Euro-Asian rail passenger and goods transport in the East-West exchange is carried out under two legal systems for passenger and freight transport (SMGS/OSJD on one side, and COTIF (CIM/CIV/RID) on

the other), the existence of which ensures the organization of international transport of goods by rail.

- (b) The intergovernmental organizations OTIF and OSJD play a positive role in regulating the activities of Euro-Asian rail transport.
 - (c) In the recent years under the auspices of the intergovernmental organizations OTIF and OSJD, a full-fledged cooperation between the transport undertakings of the States, which are members of these organisations, was established. The CIM/SMGS common consignment note, used in the transport of goods, the CIM/SMGS wagon and container note and the CIM/SMGS commercial act are examples of this cooperation. The work on the elaboration and implementation of these documents was carried out expeditiously. The use of these documents in transport operations significantly facilitates the rail transport procedures in the East-West exchange.
2. Taking into account the ongoing reform of rail transport and the structural modifications of the national rail companies, the emergence of private providers of transport services and the development of transport technologies, the Parties recognize the necessity to further coordinate Euro-Asian rail transport development.
 3. In the light of the existing differences in political systems and economic conditions applicable to rail operations in different countries, the establishment of appropriate institutional and management structures – ensuring a balance of interests for Governments and enterprises in various countries – is an important issue in the elaboration of the unified transport law for Euro-Asian rail transport. In elaborating the position on the appropriate institutional structure, the Parties shall use the existing experience of the intergovernmental organizations OTIF and OSJD, the experience of the railway organizations, as well as the experience and decision-making process of the organizations dealing with other modes of transport (air and maritime transport).
 4. The utmost and foremost importance in the development of rail transport is given to harmonizing the two legal systems (SMGS/OSJD on one side, and COTIF (CIM/CIV/RID) on the other) and the ensuing creation of a unified transport law for Euro-Asian rail transport. A list of international agreements, required for creating and implementing unified transport law for the Euro-Asian rail transport, shall be developed in the course of the work.

Cooperation between Parties also needs to address the following issues:

- (d) Cooperation on transport security;
 - (e) Development of the unified principles for the electronic exchange of documents;
 - (f) Cooperation on establishing unified technical strategy.
5. The work on developing the principles of unified transport law for Euro-Asian rail operations shall be carried out under the auspices of the UNECE. The Parties shall provide a comprehensive assistance in preparing concrete decisions as well as political support for this work in their countries.
 6. The Parties take note of information on preparing the General Terms and Conditions for Euro-Asian transport contracts (GTC EurAsia) and Conditions for Euro-Asian transport contracts (GTC EurAsia). The draft GTC EurAsia may be used as a basis for elaborating the relevant parts of unified transport law for Euro-Asian rail operations.

7. The Working Party on Rail Transport invites Governments to inform the Executive Secretary of the Economic Commission for Europe whether they accept this resolution by 201... year.
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