



Comité international
des transports ferroviaires

Internationales
Eisenbahntransportkomitee

International Rail
Transport Committee

Draft Position Paper on the Unification of Railway Law

**UNECE Working Party on Rail Transport
Sixty-fourth session**

Vienna, 18-19 November 2010

Background

2005 - UNECE Working Party on Intermodal Transport and Logistics (WP.24) adopted three strategic elements:

1. Establishment of a common pan-European rail customs transit system (successful)



Convention on International Customs Transit Procedures for the Carriage of Goods by Rail under Cover of SMGS Consignment Notes (2006)

2. Harmonization of frontier controls for rail transport (successful)



New annex 9 on rail transport to the International Convention on the Harmonization of Frontier Controls of Goods 1982 (2010)

3. Negotiation of a unified railway law (ongoing)

Unification of Railway Law

- Development and introduction of an adequate and efficient *international transport legal system*
- Facilitation of international trade in *good and services*
- New *infrastructure* project lines: China – Kazakhstan – Mongolia; Marmaray tunnel; Iran – Pakistan
- *Level-playing field* for rail transport in the Euro-Asian transport corridors

Best practices I – International Transport Law

Air transport:

- Chicago Convention on International Civil Aviation (1944)
- Warsaw Convention (liability for international carriage by air) (1929)
- Montreal Convention (unification of rules for intern. carriage) (1999)

Maritime transport:

- Hague-Visby Rules (unification of rules on bills of lading) (1924/1968)
- Hamburg Rules (carriage of goods by sea) (1978)
- Rotterdam Rules (2009, not in force)

Inland waterways:

- Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways (CMNI) (2001)

Road Transport:

- United Nations Convention on the Contract for the International Carriage of Goods by Road (CMR) (1956)

Best practices II

International Soft Law (examples):

- European Code for Inland Waterways (CEVNI)
- UN Model Regulations on the Transport of Dangerous Goods

International Contractual Law (best practices):

- CIM/SMGS Consignment Note - the “sum” of the CIM and SMGS consignment notes; the contractual link between shippers and railway companies
- Harmonized liability CIM/SMGS (ongoing, information under item 9 c)

Unification of Railway Law for Euro-Asian Transport I: Short-term (1)

Memorandum of Understanding/Resolution/Declaration (MoU/R/D):

1. Content:
 - Political document;
 - Statement of the Head of States or Transport Ministers;
 - Statement of the CEO of the Railway undertakings.
2. Scope of Application: Support of the contractual solution in the General Terms and Conditions for Euro-Asian Rail Transport Contract (GTC Eurasia)
3. To be negotiated by the Group of Experts and Adopted by the UNECE Working Party on Rail Transport (SC.2) and Inland Transport Committee (ITC)
4. Official publication through UNECE/UNESCAP and the Member States
5. Introduction through the CEO of the Railway undertakings

Unification of Railway Law for Euro-Asian Transport I: Short-term (2)

General Terms and Conditions for Euro-Asian Rail Transport Contracts (GTC Eurasia):

1. Content:

- Documentation (paper, electronic or both);
- Formal reports;
- Handling of claims;
- Limits of action;
- Liability rules (level, conditions, limitations, relief);
- Compensation between carriers and etc. as required.

2. Scope of Application: *Single transport contract* for specific Corridors / Cargoes / Transport Operations / Railway Undertakings

3. Based on and utilization of the expertise of the Legal Group from the CIT/OSJD Project “Transport interoperability CIM/SMGS”

4. Binding for the participating Railway undertakings (opting-in)

Time Frames: Short-term (3)

March-October 2011

- Preparation of GTC Eurasia (Legal Group CIT, OSJD and OTIF)

June-October 2011

- Preparation of MoU/R/D (Expert Group UNECE)

November 2011

- Adoption of MoU/R/D and General Terms and Conditions (GTC Eurasia)

March 2012

- Signature of MoU/R/D + GTC Eurasia

Unification of Railway Law for Euro-Asian Transport II: Mid-term

Model Regulations for International Rail Transport:

1. Three Layers:

- Layer 1: *Core provisions* - generally applicable for international rail transport operations (COTIF/CIM, SMGS and General Terms and Conditions for Euro-Asian Rail Transport Contracts/GTC Eurasia)
- Layer 2: *Complementary provisions* (tariffs, regulatory provisions, e.g. access and rail competition)
- Layer 3: *Regional provisions* (specific lines/regions/geographical areas)

2. Legal Nature: Non-binding

3. Introduction of its provisions into existing conventions – COTIF and SMGS

4. Time frames:

- 06.2012 – 10.2013 - Preparation of Model Regulations and Mechanisms;
- 04.2014 - Adoption of Model Regulations and Mechanisms;
- as of 2015 - Reporting and review procedures;

Unification of Railway Law for Euro-Asian Transport III: Long-term Aims

Convention on International Rail Transport:

1. Based on experiences of the harmonized international regulation of the other modes of transport
2. Utilizing best practices from *General Terms and Conditions for Euro-Asian Rail Transport Contracts (GTC Eurasia)* and *Model Regulations for International Rail Transport*
3. Legal Nature: *Binding*
4. Time frames:
 - as of **2015** - Convention on International Rail Transport (CIRT)