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## Economic Commission for Europe

### Inland Transport Committee

#### 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**

## **Identification of an appropriate management system for unified railway law**

### **Note by the secretariat**

#### **I. Mandate**

1. In accordance with the strategy outlined in the Joint Declaration signed during the Ministerial session of the seventy-fifth Inland Transport Committee, an appropriate management system for unified railway law should be identified using the experience of international organizations in the field of the railway transport (Intergovernmental Organization for International Carriage by Rail (OTIF), Organization for Cooperation between Railways (OSJD) and others) as well as of international organizations of other modes of transport (ECE/TRANS/2013/2, para. 2 (d)).
2. At its fifth session, the Group of Experts felt that, in preparation of its forthcoming session, the UNECE secretariat, in cooperation with OTIF and OSJD as well as other relevant international organizations, such as ICAO and IMO, should prepare a synopsis of the management systems of existing international modal systems and agreements for review by the Group of Experts (ECE/TRANS/SC.2/GEURL/2013/5, paras. 11 (c) and 23).
3. It is recalled that, as specified in the Joint Declaration, discussions on an appropriate management system should await consensus among experts on the material (substantive) provisions and mechanisms of a unified international regime for the international carriage of goods by rail.

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*Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (COTIF/CIM (Protocol 1999))\**

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Depository functions	<p>Depository: Secretary-General of OTIF Secretariat (Article 21)</p> <p>Notifications by the Secretary-General OTIF (Article 36)</p> <p>Depository actions and specific notifications (Articles 9, 10, 21, 24, 39, 40, 41, 42)</p>
Administrative functions	<p>Amendments/Modifications:</p> <p>Amendments within the authority of the General Assembly (Article 33 of COTIF) (Classical Review procedure) Relevant provisions : a) Convention itself (Article 33, § 4, letter a) of COTIF) : all articles with the exception of Articles 9, 27 and Uniform Rules (UR) CIM (Article 33, § 4, letter c) of COTIF) : Articles 1, 5, 6, 8, 12, 13, 14, 15, 19, 23, 24, 25, 26, 27, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 44, 45, 46, 47, 48 and c) Other provisions (Article 33 of COTIF, last paragraph).</p> <p>Adoption of decisions regarding amendments: Quorum: majority of member States (Article 14, § 4 of COTIF) / "§ 4 at the General Assembly the quorum (Article 13, § 3) can achieved when the majority of the member states are presented. A member State may be represented by another member State, but a State may not represent more than one other state."</p> <p>Majority required for amendments to the Convention (and UR CIM): majority of two-third (Article 14, § 6 of COTIF).</p> <p>(a) Modification of the Convention itself (Article 34, § 2 of COTIF)</p> <p>(b) Change in UR CIM (Article 34, § 3 of COTIF)</p> <p>Amendments to UR CIM under the responsibility of the commission (Article 33 of COTIF) (simplified procedure)</p> <p>Provisions relevant to UR CIM (Article 33, § 4, letter c) of COTIF)</p> <p>Quorum: majority of member States (Article 17, § 2 of COTIF)</p> <p>Majority required for amendments to the UR CIM: at least one-third of the member States represented in the vote (Article 16, § 4 of COTIF)</p> <p>Entry into force of amendments to the UR CIM decided by the commission (Article 35, §§ 3 and 4 of COTIF)</p> <p>"§ 3 Modifications of the Appendices to the Convention, decided by the commission, enter into force for all member States , the first day of the twelfth month following the month in which the Secretary General has notified the member States about the modifications."</p>
Secretariat support functions	<p>The secretary general should act as the secretariat of OTIF (Article 13, §§ 3 et 4 of COTIF) (Articles 36, 34, 14, 16, 24, 25)</p>

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\* More detailed information can be found in Informal document SC.2/GEURL No. 2 (2013)

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*Agreement on International goods Traffic by rail (SMGS Agreement)\*\**

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Depository functions	Depository: Organization for Cooperation of Railways (OSJD) (3 Article V) Notifications by the Organization for Cooperation of Railways (Article 38 SMGS)
Administrative functions	OSJD Commission on Transport Law (Article 38 SMGS) Draft changes and amendments (Article 39 SMGS) / Principle of Unanimity
Secretariat support functions	OSJD Secretariat

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*Convention on the Contract for the International Carriage of Goods by Road (CMR)*

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Depository functions	Depository: Secretary-General of the United Nations (Article 51) Notifications by the Secretary-General of the United Nations (Article 50) Depository actions and specific notifications (Articles 42 (5), Article 43, 44, 46, 48 (2))
Administrative functions	Settlement of disputes: International Court of Justice (Article 47) Review conference to be convened by the Secretary General of the United Nations (Article 49)
Secretariat support functions	No specific secretariat support other than assistance by the Secretary-General of the United Nations in convening a review conference at the request of Contracting Parties (Article 49)

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*Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway (CMNI)*

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Depository functions	Depository: Government of the Republic of Hungary (Article 38) Notifications by the Government of the Republic of Hungary (Article 37) Depository actions and specific notifications (Articles 33, 35)
Administrative functions	Jurisdiction: Article 29 Review conference to be convened by the Government of the Republic of Hungary (Articles 36, 37)
Secretariat support functions	-

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\*\* More detailed information can be found in Informal document SC.2/GEURL No. 3 (2013)

*Convention for the Unification of Certain Rules for International Carriage by Air - Montreal, 28 May 1999  
(Montreal Convention)*

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Depository functions	Depository: International Civil Aviation Organization (Article 53) Depository Secretariat functions (Articles 53, 54)
Administrative functions	Article 55: Additional Protocol Nos. 1 to 3 and Montreal Protocol No. 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol, signed at Montreal on 25 September 1975 (hereinafter called the Montreal Protocols).
Secretariat support functions	International Civil Aviation Organization Secretariat.

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*Convention for the unification of certain rules relating to international carriage by air, signed at Warsaw on 12 October 1929  
(Warsaw Convention)*

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Depository functions	Depository: Government of the Republic of Poland (Article 37) Notifications by the Government of the Republic of Poland (Article 37) Depository actions and specific notifications (Articles 38, 39)
Administrative functions	jurisdiction: Article 28 Review conference to be convened by the Government of France (Article 41)
Secretariat support functions	-

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*The Hague-Visby Rules - The Hague Rules as Amended by the Brussels Protocol 1968*

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Depository functions	Depository: Government of the Republic of Belgium (Article XI) Notifications by the Government of the Republic of Belgium (Article XII) Depository actions and specific notifications (Articles XIV, XV)
Administrative functions	Review conference to be convened by the Government of Belgium (Article XVI)
Secretariat support functions	-

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