



Economic and Social Council

Distr.: General
9 January 2019

Original: English

Economic Commission for Europe

Inland Transport Committee

Working Party on Rail Transport

Group of Experts towards Unified Railway Law

Eighteenth session

Geneva, 29–31 October 2018

Report of the Group of Experts towards Unified Railway Law on its eighteenth session

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I. Attendance

1. The Group of Experts towards Unified Railway Law (GEURL) held its seventeenth session from 29 to 31 October 2018 in Geneva. The session was chaired by Mr. A. Druzhinin (Russian Federation).

2. Representatives of the following countries participated: Croatia, Germany, Luxembourg, Poland, Russian Federation, Slovakia and Turkey. A delegate from the European Union Agency for Railways also attended the session.

3. Experts from the following intergovernmental organizations participated: Intergovernmental Organization for International Carriage by Rail (OTIF) and Organization

for Cooperation between Railways (OSJD). Experts from the following non-governmental organization attended the session: International Rail Transport Committee (CIT).

4. Experts from the following organizations participated at the invitation of the secretariat: CMS Cameron McKenna LLP, Deutsche Bahn AG (DB), PKP CARGO S.A. (PKP) and the University Frankfurt on Main.

II. Adoption of the agenda

5. The Group of Experts adopted the agenda of its eighteenth session (ECE/TRANS/SC.2/GEURL/2018/4).

III. Execution of the Mandate of the Group (agenda item 2)

6. The Group of Experts recalled that at its seventeenth session, it had adopted a detailed work plan with the tasks to be undertaken. In this context, the Group of Experts considered and discussed:

(a) Monitoring of the finalization of the ad hoc consignment note and other ad hoc relevant documents as appropriate for the real pilot tests:

(i) DB presented a DB-PKP-JSC “Russian Railways” (RZD) negotiated ad hoc draft consignment note that had been prepared on the basis of the common CIM/SMGS consignment note (approved by the OSJD Commission on Transport Law in October 2017 and CIT for CIM in March 2018) that was adapted for Unified Railway Law (URL) and was envisaged for use in the real pilot tests. DB proposed to approve this ad hoc draft consignment note for the real pilot tests. The Russian Federation drew attention to a few issues that should be further clarified in the ad hoc consignment note before approval for the real pilot tests (ECE/TRANS/SC.2/GEURL/2018/7);

(ii) Following a discussion, the Group of Experts discussed the issues raised by the Russian Federation one by one and agreed that:

- Reference to RID/SMGS appendix 2 on box 22 – to remove this reference and to rename box 22 to “Dangerous goods”
- Number of notes of the consignment note – to keep five notes and hence to delete the sixth note
- Use of boxes 49 to 58 and 72 to 94 – to potentially keep these boxes as provided (option 1) or to attempt to rework the ad hoc draft consignment note and put these boxes in one block (option 2)
- Numbering of boxes – to revisit the numbering when the consignment note is finalized after the tests and after further comments from the CIT/OSJD CIM/SMGS Group
- Content compatibility of the consignment note with URL article 6:
 - Name and address of a person to whom goods have effectively been handed over other than the contractual carrier (1 (d)) – to include this information in box 69 and clarify it through adequate instruction
 - In case of using the intermodal unit (1 (k)) – to include this information in box 20 and to clarify it through adequate instruction

- The agreed time of delivery (2 (b)) – to include this information in box 7 and to clarify it with adequate instructions
- The agreed route to follow (2 (c)) – to include this information in box 13 and to clarify it with adequate instructions
- Content compatibility with the following points:
 - Expansion of responsibility – to include this information in box 13 and clarify with adequate instructions
 - Complete time of delivery and partial time for individual carriers – to include this information in box 7 and clarify with adequate instruction (option 1) or to introduce a new box/subbox of 7 (option 2)
 - Time of transfer of the right to dispose of the goods from the consignor to the consignee – to include this information in box 7 and clarify with adequate instruction (option 1) or to introduce a new box/subbox of 7 (option 2)
 - Persons authorized for the consignor and the consignee to give subsequent orders in the event of obstacles – to include this information in box 7 and clarify with adequate instruction (option 1) or to introduce a new box/subbox of 7 (option 2);

(iii) With the clarification on issues raised, the Group of Experts approved “in principle” the ad hoc consignment note for the real pilot tests. Concerning the open issues (option 1 versus option 2), the Group of Experts invited the interested railways undertakings (in particular DB, PKP and RZD) to hold a teleconference possibly before the end of November 2018, consider the options referred to as option 2 in the list above and incorporate changes to the ad hoc consignment note as far as possible. The reworked draft consignment note should then be sent to the secretariat who would disseminate it to all experts;

(iv) Concerning other relevant documents which should accompany the consignment note for the real pilot tests, and further to the advice from CIT, the Group of Experts agreed that there was no need to adapt any of those documents for the real pilot test (reference to item (c) below);

(v) The Group of Experts further agreed that a “dossier” for the real pilot test should be prepared by the secretariat. The dossier should include: a cover letter, the draft URL provisions, the approved “in principle” consignment note (thereafter to be replaced with the further revision from the teleconference) and a document explaining the advantages of implementing URL (marketing material). The Group of Experts requested the secretariat to prepare this dossier for approval by the Group of Experts and then submission to the session of the Working Party on Rail Transport (SC.2) (from 21 to 23 November 2018). This session would be a great opportunity to further inform the delegations on the current work of the Group of Experts and especially on the efforts to organize real pilot tests on selected corridors;

(vi) Turkey told the Group of Experts that it had tentatively invited Azerbaijan and Georgia to hold a meeting on the parameters and conditions for conducting a test on a Turkey-Georgia-Azerbaijan corridor;

(b) Formal invitation to OSJD to encourage active participation in the work of the Group of Experts (finalization of documents, OSJD ministerial conference):

The secretariat informed the Group of Experts that the letter had been prepared and would be sent before the end of October 2018;

(c) Use and adaptation of other relevant documents on the contract of carriage to URL needs and requirements:

The Group of Experts agreed that experts would inform the secretariat about other relevant documents on the contract of carriage in accordance with the international regimes that potentially would need to be adapted to URL. Proposals listing such documents should be shared with the secretariat at earliest convenience permitting the secretariat to compile a list of such documents for the next session;

(d) Information by the governments and railways undertakings, where applicable, about the state of play of domestic procedures necessary to allow the performance of a substantial number of real pilot tests with URL being applied in a legally binding manner:

(i) DB reiterated its earlier statement that there were no obstacles for DB to carry out the real pilot test provided that rail companies and customers involved agree that such transports should be carried out on a contractual basis and that any issues arising are resolved by common consent between the parties;

(ii) The Russian Federation told the Group of Experts that the Deputy Minister of the Ministry of Transport in charge of railways had confirmed that the Ministry will authorize RZD to carry out the real pilot tests. The authorisation was in preparation and was to be issued shortly;

(iii) The Russian Federation further encouraged other countries to inform about potential issues causing obstacles to carrying out the real pilot tests;

(iv) The project manager of TER and Austrian railways executive told that the Rail Cargo Group, a subsidiary of the Austrian Railways would be ready to run the pilot on the corridor Austria-Slovakia-Ukraine-Russian Federation-Kazakhstan-China, on which regular block trains are operated. He requested the “dossier” to be shared as soon as possible as it would serve as a basis for Austrian Railways to assess the feasibility of carrying out the tests. He further suggested that the ad hoc draft consignment note should be also made available in Chinese;

(v) Turkey stated that, in addition to the information provided under item 6 (a), the ad hoc draft consignment note would need to be discussed with the custom authorities. Once it would be accepted a three-party meeting involving all necessary agencies from Azerbaijan, Georgia and Turkey would need to be organized. Turkey was ready to take all the steps necessary to launch the real pilot tests;

(vi) The Group of Experts took note of the information provided. It reiterated the need for preparing and distributing the dossier for the real pilot tests. It requested OSJD to assist in translating the ad hoc consignment note for the pilot tests into Chinese at earliest convenience. The Group of Experts further requested the secretariat to explore possibilities for arranging official translation of the consignment note and of the draft legal provisions into Chinese in addition to English, French and Russian. The secretariat requested the railways to provide the consignment note in a working document format to be annexed in the current report and therefore translated into the three ECE official languages;

(e) Parameters (time schedule, type of cargo, places of departure and destination, etc.) and framework conditions in place to run pilot tests (determine the corridors on which real pilot tests would be performed) on corridors:

The Group of Experts, after a brief discussion, agreed that containerized cargo would be the optimal type of cargo for the real pilot tests. The details for all parameters should be worked out once the tests for a specific corridor are confirmed

by all partners involved. As far as the time schedules are concerned, it was proposed to consider that possibly every transport on the corridor during a pre-agreed period of time is carried out under URL;

(f) Efforts in engaging key railway undertakings for the performance of the real pilot tests, such as from Belarus, Georgia and Turkmenistan:

(i) The secretariat informed the Group of Experts that it had informally contacted the national authorities and railway undertakings in the three countries concerned to explain the work of URL and the necessity of real pilot tests. The secretariat further urged these countries to actively participate in the activities of the Group of Experts, as well as to involve in the real pilot tests. The secretariat received no responses from these countries;

(ii) The Group of Experts took note of the information provided by the secretariat. It requested that official letters – four corridors, fourteen countries – are sent by the secretariat to the Ministers of Transport and to the executive directors of railway undertakings in all countries on the specific corridors identified for the real pilot tests to urge their participation in the work of URL, and more specifically, in the real pilot tests. These letters are part of the dossier under item 6 (a);

(g) Options available for converting URL into a legally binding instrument including the different management systems:

(i) The secretariat presented ECE/TRANS/SC.2/GEURL/2018/6 and more specifically a number of case studies from several United Nations transport legal instruments on the modalities for updating the instruments and the accompanying management system established for these legal instruments. More specifically detailed information was provided for the TIR and ADR conventions, as well as insight on several other conventions such as the 1968 Convention on Road Traffic, the 1968 Convention on Road Signs and Signals, and CMR and its Protocols;

(ii) The Group of Experts appreciated the information. It requested the secretariat to update ECE/TRANS/SC.2/GEURL/2018/6 with:

- a. Information on CMR,
- b. Additional information and corrections from OTIF on CIM, and
- c. Description of adopted practices in the United Nations transport conventions for modification through amendments to technical annexes and for general review and modification of conventions provisions through amendments;

(iii) The Group of Experts further agreed that the administrative system and the operational matters for URL contained in the final provisions would depend on the final content of URL, i.e. whether URL be developed into the framework convention (or system of agreements) covering various rail issues or be just focused on the contract for the carriage of goods in international traffic. To continue its discussion, the Group of Experts requested an analysis for the next session on the pros and cons and an impact analysis (intervention logic) for both approaches. The representatives of the Russian Federation and of the European Commission volunteered to consider preparing such analyses respectively for the “URL as framework convention” and for the “URL as contract of carriage convention” as formal documents for the next session. The documents should contain the contextual background, a brief description of the approach and the impact analysis;

(iv) OTIF volunteered to draft a formal document for the next session linking operational matters with an administrative system based on COTIF. The Group of Experts agreed that all the documents should be submitted to the secretariat before 15 January 2019;

(v) The Group of Experts further agreed that the April session should emphasize on and aim at reaching a conclusion for the approach for future work. The secretariat was requested to invite private sector representatives (CER, UIC, etc.) and good representation from the member States to the next session for their thoughts and views, which should allow the Group of Experts to take an informed decision, i.e. also considering the market demand;

(h) Comments by the Russian Federation (ECE/TRANS/SC.2/GEURL/2018/7):

ECE/TRANS/SC.2/GEURL/2018/7 was discussed under items 6 (a), (f), (g) and (j);

(i) Issues in articles 32, 33 and 34 of the draft URL legal provisions and in using a formal report for article 28 “Notice of damage”:

The Group of Experts agreed that the railway undertakings consider articles 32–34 and 28 during a planned teleconference (referred to under item 6 (a)) and to provide their feedback on whether these articles should be further explained;

(j) Scoping discussion on other relevant issues related to international rail freight transport with a view to adding, where appropriate, provisions to the legally binding document as well as on the organization of a workshop:

The Group of Experts reflected on the scope of URL. Possible approaches to increasing the scope beyond the contract of carriage (e.g. wagon law) could be to consider a criterion to understand whether a new law is needed to remedy any legal uncertainty for international rail transport as it was the case for the contract of carriage. The initial analyses to be prepared for the next session as agreed under item 6 (g) should also help the discussion on the scope of URL to be continued at the next session.

IV. Other business (agenda item 3)

7. Experts did not raise any issues under this item.

V. Date of next session (agenda item 4)

8. The Group of Experts was informed that the nineteenth session was scheduled to be held at the Palais des Nations in Geneva from 2 to 4 April 2019.

VI. Summary of decisions (agenda item 5)

9. The Chair with the support of the secretariat summarized the main decisions taken at the eighteenth session.

Annex

[Original: Russian]

Terminology for the Consignment Note for Unified Railway Law

I.	Оригинал накладной
II.	Дорожная ведомость
III.	Лист выдачи груза/Таможня
IV.	Дубликат накладной
V.	Лист приема груза
1	Отправитель (Наименование, адрес, страна) Подпись Электронная почта Тел. Факс
4	Получатель (Наименование, адрес, страна) Электронная почта Тел. Факс
7	Заявления отправителя
8	Ссылка отправителя/№ договора
9	Документы, приложенные отправителем
10	Место доставки Станция назначения Страна/Железная дорога
13	Коммерческие условия
15	Отметки, не обязательные для перевозчика
16	Место приёма Месяц – день – время Станция отправления Страна/Железная дорога
18	Транзитное фактурирование через
19	№ вагона
20	Наименование груза Знаки, марки Упаковка Груз Число мест Пломбы

21	Необычная отправка да
22	Опасные грузы да
23	Код НХМ/ГНГ
24	Масса (в кг)
26	Отметки таможни
27	Ценность груза
28	Место и дата оформления накладной
37	Накладная ЕЖП По договоренности сторон перевозка осуществляется согласно правовым предписаниям Единого Железнодорожного Права (ЕЖП). Переоформления в пути следования не производится. Оригинал накладной
39	Проверка
48	Масса груза после перегрузки
49	Линия
58	Сборы
59	Код оплаты
60	Маршруты
61	Таможенное оформление
62	Коммерческий акт Составлен Месяц – день
63	Удлинение срока доставки Код от до Место
64	Заявления переводчика
65	Другие перевозчики Наименование, адрес Линия В качестве
66	а) Договорный перевозчик Подпись б) Упрощенная процедура для железнодорожных отправок да
67	Дата прибытия № получения
68	Предоставлен Месяц – день – время

69	Идентификация отправки Страна Станция Перевозчик № отправки
70	Дата заключения договора перевозки
71	Подтверждение получения Разделы по расчету провозных платежей
72	Участок Коды станций от до
73	Расстояние, км
74	Расчётная масса, кг
75	Дополнительные сборы
76	Тариф
77	Код груза
78	Курс пересчета Расчёты с отправителем Расчёты с получателем
79/81	Валюта тарифа
80/82	Валюта платежа
91	Итого
95	Всего
99	Отметки для исчисления и взимания провозных платежей
100	Дополнительно взыскать с отправителя за
101	Отметки перевозчика
102	Удлинение срока доставки Станция Задержка из-за от час до час
103	Отметки о передаче груза
104	Отметки о проследовании пограничных станций
105	Уведомление о прибытии груза
106	Выдача груза Подпись получателя
