

**Economic and Social Council**Distr.: General
25 April 2013

Original: English

Economic Commission for Europe**Inland Transport Committee****Working Party on Rail Transport****Group of Experts towards Unified Railway Law****Fifth session**

Geneva, 4–5 July 2013

Item 5 of the provisional agenda

**Establishment of a unified set of transparent and predictable provisions
and legal rules for Euro-Asian rail transport operations – What is needed?****Establishment of a unified set of transparent and predictable
provisions and legal rules for Euro-Asian rail transport
operations****Note by the secretariat****I. Mandate**

1. In accordance with the Joint Declaration signed during the Ministerial session of the seventy-fifth Inland Transport Committee (ECE/TRANS/2013/2) the Group of Experts may wish to consider and decide on the main problems and issues to be addressed by a unified set of provisions and legal rules for Euro-Asian rail transport operations.

II. Issues to be addressed

2. The Group of Experts may wish to consider the scale of its work, including issues such as:

- What should be the geographical scope of the provisions and legal rules (countries concerned, regional, inter-regional, global outreach)?
- Which international rail transport problems need to be addressed (passenger and/or freight operations, rail infrastructure, liability, transport documents, transport contracts, border crossings procedures, Customs transit regimes, etc.)?
- What are the legal and/or contractual options to address these problems?
- How to realize and maintain unified, transparent and predictable rail transport rules?

III. Comparison of provisions contained in COTIF/CIM and SMGS

3. The following table illustrates the different provisions – articles – for both the Convention on International Carriage by Rail (COTIF/CIM) of 1980 as amended by the Vilnius Protocol in force from 1 July 2006 and the Agreement on International Goods Transport by Rail (SMGS) of 1951 as updated until 15 October 2012:

<i>i.d</i>	<i>COTIF/CIM</i> (Protocol 2006)	<i>SMGS</i> (15.10.2012)
1	Article 1 Scope;	Article 1 Scope of the Agreement;
2	Article 2 Prescriptions of public law;	Article 2 Application of the Agreement;
3	Article 3 Definitions;	Article 3 The obligation of railways to provide transportation;
4	Article 4 Derogations;	Article 4 Items not accepted for carriage
5	Article 5 Mandatory law;	Article 5 Items accepted for carriage under special conditions;
6	Article 6 Contract of carriage;	Article 6 Special provisions for certain traffic;
7	Article 7 Wording of the consignment note;	Article 7 Contract of carriage;
8	Article 8 Responsibility for particulars entered on the consignment note;	Article 8 Acceptance of cargo for carriage;
9	Article 9 Dangerous goods;	Article 9 Containers, packaging, labelling, loading, determination of weight and quantity of slots for cargo, sealing of carriages;
10	Article 10 Payment of costs;	Article 10 Declaration of value of goods and interest in delivery;
11	Article 11 Examination;	Article 11 Accompanying documents for fulfilment of customs and other regulations;
12	Article 12 Evidential value of the consignment note;	Article 12 Responsibility for the information registered in the consignment note; Penalties;
13	Article 13 Loading and unloading of the goods;	Article 13 Fees; Calculation of freight charges and penalties;
14	Article 14 Packing;	Article 14 Delivery times of cargo;
15	Article 15 Completion of administrative formalities;	Article 15 Payment of freight charges;
16	Article 16 Transit periods;	Article 16 Superimposed payments and loans;
17	Article 17 Delivery;	Article 17 Freight delivery. Freight tracking;
18	Article 18 Right to dispose of the goods;	Article 18 Commercial Act;
19	Article 19 Exercise of the right to dispose of the goods;	Article 19 Lien of railways;
20	Article 20 Circumstances preventing carriage;	Article 20 Rights and procedures for change of contract of carriage ;

<i>i.d</i>	<i>COTIF/CIM (Protocol 2006)</i>	<i>SMGS (15.10.2012)</i>
21	Article 21 Circumstances preventing delivery;	Article 21 Obstacles of transportation and delivery of goods;
22	Article 22 Consequences of circumstances preventing carriage and delivery;	Article 22 Joint liability of railways;
23	Article 23 Basis of liability;	Article 23 Limitation of liability;
24	Article 24 Liability in case of carriage of railway vehicles as goods;	Article 24 Limitation of liability in case of shortage of cargo weight;
25	Article 25 Burden of proof;	Article 25 Amount of compensation in case of total or partial loss of cargo;
26	Article 26 Successive carriers;	Article 26 Amount of compensation in case of damage, deterioration or loss of quality of goods for other reasons;
27	Article 27 Substitute carrier;	Article 27 The amount of compensation for delay in delivery;
28	Article 28 Presumption of loss or damage in case of re-consignment;	Article 28 Payment of compensation. Interest on the amount of compensation and the amount of overcharges of freight fees;
29	Article 29 Presumption of loss of the goods;	Article 29 Claims;
30	Article 30 Compensation for loss;	Article 30 Claims under the contract of carriage; Jurisdiction;
31	Article 31 Liability for wastage in transit;	Article 31 Claims and Limitation of Actions;
32	Article 32 Compensation for damage;	Article 32 Transactions between railways;
33	Article 33 Compensation for exceeding the transit period;	Article 33 Requirements for inter-rail refund of compensations paid out ;
34	Article 34 Compensation in case of declaration of value;	Article 34 Fixed tariff currency;
35	Article 35 Compensation in case of interest in delivery;	Article 35 Official instruction for the Agreement;
36	Article 36 Loss of right to invoke the limits of liability;	Article 36 The application of domestic laws;
37	Article 37 Conversion and interest;	Article 37 Publication, amendments and additions to the Agreement and to the Official instruction for the Agreement;
38	Article 38 Liability in respect of rail-sea traffic;	Article 38: Meetings of the Commission of OSJD;
39	Article 39 Liability in case of nuclear incidents;	Article 39 Conduct of business;
40	Article 40 Persons for whom the carrier is liable;	Article 40 Parties to the Agreement;
41	Article 41 Other actions;	Article 41 Validity of Agreement and Final Provisions;

<i>i.d</i>	<i>COTIF/CIM</i> (Protocol 2006)	<i>SMGS</i> (15.10.2012)
42	Article 42 Ascertainment of partial loss or damage;	<i>Appendices</i>
43	Article 43 Claims;	Appendix 1 List of items that make up the monopoly of the Post Services;
44	Article 44 Persons who may bring an action against the carrier;	Appendix 2 Rules of transportation of dangerous goods (published separately);
45	Article 45 Carriers against whom an action may be brought;	Appendix 3 Terms of cargo transportation accompanied with handler guides provided by either sender or recipient;
46	Article 46 Forum;	Appendix 3.1 Certificate for the cargo handler;
47	Article 47 Extinction of right of action;	Appendix 4 Terms of transportation for perishable goods;
48	Article 48 Limitation of actions;	Appendix 4.1 List of major perishable goods;
49	Article 49 Settlement of accounts;	Appendix 5 Loading dimensions;
50	Article 50 Right of recourse;	Appendix 6 Labels for shipments, carriages, containers and overhead, as well as marking signs for shipments places;
51	Article 51 Procedure for recourse;	Appendix 7 Rules of transportation of automotive technology;
52	Article 52 Agreements concerning recourse.	Appendix 7.1 to the inventory of automotive equipment; Appendix 8 Rules of transportation of containers; Appendix 8.1 List of stations, available for operations of medium-capacity containers; Appendix 8.2 List of stations, available for operations of large-capacity containers; Appendix 9 (reserved); Appendix 10 Rules of transportation of privately-owned carriages and carriages rented-out but owned by railways; Appendix 11 Rules for transportation of cargo in transport bags; Appendix 12.1 and 12.2 Samples of the SMGS consignment notes for low-speed transportation (12.1), and for high speed transportation (12.2); Appendix 12.3 and 12.4 Samples of additional copies of the freight bill for of low-speed transportation (12.3) and for of high-speed transportation (12.4) ;

COTIF/CIM
i.d (Protocol 2006)

SMGS
(15.10.2012)

Appendix 12.5 Explanations for completing the SMGS consignment note;

Appendix 12.5.1 Control Label;

Appendix 12.5.2 List of standardized codes for additional fees and other expenses;

Appendix 12.6 Particulars for filling out SMGS consignment note for the goods carried with the re-issuance of the SMGS consignment note for the consignment note under a different regime and vice versa;

Appendix 13.1 Registration of carriages transported as a group with a single consignment note;

Appendix 13.2 Explanations for completing the registration of carriages transported as a group with a single consignment note;

Appendix 13.3 Registration of containers transported as a group with a single consignment note;

Appendix 13.4 Explanations for completing the Registration of containers transported as a group with a single consignment note;

Appendix 14 Rules for the allocation and securing cargo in wagons and containers (published separately);

Appendix 14.1 Rules for the allocation and securing trucks, cars, tractors, trailers, semi-trailers and swap automotive bodies on specialized rail platforms of models 13-9009, 13-4095 and 13-9004M tracks of 1520 mm;

Appendix 15 Statement for cargo tracing;

Appendix 16 Commercial act;

Appendix 17 Statement of changes in the contract of carriage;

Appendix 18 The act of opening the carriage, container, vehicle, tractor or other automated vehicle, trailer, for the border, customs, health, hygiene and other types of control and inspections;

Appendix 19 List of names and addresses of competent railways, responsible for the review of claims;

Appendix 20 Statement of claim for the delay in delivery;

Appendix 21 Terms of transportation of trucks, cars, trailers, semi-trailers and swap automotive bodies;

COTIF/CIM
i.d (Protocol 2006)

SMGS
(15.10.2012)

Appendix 21.1 List of stations open for operations with trains, motor vehicles, trailers, semi-trailers and swap automotive bodies;

Appendix 22 Guidelines for CIM/SMGS consignment notes (published separately);

Appendix 22.1 Explanatory notes for the application of certain provisions of SMGS for individual columns of the CIM/SMGS.
