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Inland Transport Committee

Working Party on Rail Transport**Group of Experts towards Unified Railway Law****Twenty-first session**

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Item 2 (c) of the provisional agenda

Execution of the Mandate of the Group of Experts**Scope of URL and its conversion into a legally-binding instrument****Draft provisions on the relation between the contract of carriage and the public law regulating the execution of carriage by railway****Note by the secretariat****Mandate**

1. This document was prepared at the request of the Group of Experts towards Unified Railway Law (Group of Experts) at its twentieth session. The Group invited the secretariat to prepare a document containing draft provisions on the relation between the contract of carriage and the public law regulating the execution of carriage by railway.
2. The draft relevant provisions is submitted in the annex of the current document.



Annex

Relevant provisions*

The relation between public law and the provisions regulating the rights and obligations of the parties to the contract of carriage arising from such a contract is addressed in the Article 4 of Chapter 1 of the current draft provisions.

That article stipulates:

Article 4

Provisions of public law

This legal regime governs only the rights and obligations of the parties to the contract of carriage arising from such contract. Carriage to which this legal regime applies shall remain subject to the provisions of public law, in particular public law provisions regulating:

1. *the safe transport of dangerous goods as well as other safety issues; and/or*
2. *customs formalities; and/or*
3. *the protection of animals.*

As per the Article 4, the contract of carriage is subject to provisions of public law in force, whether or not explicitly referred to in this article. The rights and obligations of the contract of carriage are thus governed in the context of the public law in force.

Article 4, if so wished, may refer to other specific regulations, should this facilitate the application of the contract of carriage provisions. Hence, the listing of particular provisions of public law for safe transport of dangerous goods, custom formalities and protection of animals, may be further supplemented with other public law regulations such as on the use of wagons, use of infrastructure, and use of rolling stock.

New Article 4 may read as follows (new text marked as bold, deleted text as strikethrough, references in []):

Article 4

Provisions of public law

This legal regime governs only the rights and obligations of the parties to the contract of carriage arising from such contract. Carriage to which this legal regime applies shall remain subject to the provisions of public law, in particular public law provisions regulating:

1. *the safe transport of dangerous goods as well as other safety issues; ~~and/or~~*
2. *customs formalities; ~~and/or~~*
3. *the protection of animals;*
4. **restrictions and special conditions for the transport of various types of goods** [cf. Article 8 of SMGS];
5. **(technical) restrictions to use various border crossings, railway infrastructure or railway stations in various countries** [cf. Article 3 § 2 of SMGS];
6. **licensing of railway undertakings to perform rail transport of goods;**
7. **the right of access of a railway undertaking to use the railway infrastructure in various countries; and/or**

* Reproduced as received.

8. the technical admission of railway vehicles/wagons for circulation in international rail traffic [cf. Article 14 § 6 of SMGS].

In addition, the regulations on the use of railway vehicles and wagons not belonging to the carrier may be stipulated in a new chapter 6, such as: **Relations between keepers of railway vehicles/wagons and railway undertakings using those vehicles as means of transport**. The provisions of chapter 6 should be based on COTIF/CUV and Section 3 of SMGS.
