

**Economic and Social Council**Distr.: General
10 August 2012

Original: English

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

Geneva, 19 October 2012

Item 3 of the provisional agenda

Discussion on the Joint Declaration**Discussion on the Joint Declaration****Note by the secretariat****I. Mandate**

1. This document contains a first draft of the Joint Declaration on the promotion of Euro-Asian rail transport and activities including steps towards unified railway law prepared by the secretariat (ECE/TRANS/SC.2/GEURL/2012/5) in accordance with decisions made at the group of expert's (ECE/TRANS/SC.2/GEURL/2011/4, paras. 19–37), second (ECE/TRANS/SC.2/GEURL/2011/9, paras. 19–29) and third (ECE/TRANS/SC.2/GEURL/2012/3, paras. 12–13) sessions.

2. The Group of Experts may wish to consider and finalize the current draft Joint Declaration and forward it to the UNECE Working Party on Rail Transport (SC.2) for further examination and approval at its session to be held on 8 and 9 November 2012. Portions of the text and alternate wordings provided by the secretariat are presented in square brackets for consideration by the Group of Experts.

II. Draft Joint Declaration [on the promotion of Euro-Asian rail transport and activities including steps towards unified railway law]

We, Ministers of Transport of Governments interested in Euro Asian rail transport:

Meeting in Geneva on February 2013 under the auspices of the United Nations Economic Commission for Europe (UNECE),

Recognizing the potential for efficient and seamless Euro-Asian rail transport operations demanded by economic globalization and by ever increasing trade within the Euro Asia area,

Noting the progress of important rail infrastructure projects along Euro-Asian land transport links,

Noting also that railways have a crucial as well as an alternative and complementary role to play mainly because containerized transport between Europe and Asia will continue to grow while seaports on both continents as well as port hinterland transport links are increasingly congested,

Convinced that long distance Euro-Asian rail transport operations of goods and passengers may significantly increase, if fast, reliable and seamless rail and intermodal transport services are developed along the Euro-Asian links,

Aware that globalization, railways reform and opening of transport markets provide railways with new options to reach out to transcontinental traffic and to turn Euro-Asian transport market opportunities into rail business,

Convinced that in order to make rapid progress towards that goal, Governments, with the assistance of international organizations should cooperate and commit to a set of common objectives, legal principles and operational rules to provide support to railways business,

Aware that Euro-Asian railways business involve and transit many countries, all members of UNECE and UNESCAP, with different national railway systems and structures as well as different legal regimes governing international rail transport, i.e. Convention concerning International Transport by Rail (COTIF) Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (CIM), Agreement on International Railway Freight Transport (SMGS), the relevant acquis of European Union, [the CIS, the Euro-Asian Customs Union, the World Customs Organization and other Governmental organizations].

Bearing in mind the progress achieved by the other transport modes in harmonizing and simplifying their legal framework, making it imperative to ensure comparable business conditions among these modes and rail transport,

Conscious that different legal regimes along Euro-Asian rail transport links increase cost, reduce competitiveness and impede the development of effective rail transport operations and efficient railways business,

[*Aware* of the challenges posed by rail transport safety and security and *taking account* of the technical differences that should not become barriers to the development of Euro Asian rail transport];

Welcoming progress made through the joint activities of OSJD, OTIF and CIT in establishing the common CIM/SMGS consignment note, including the related electronic documents,

[*Recognizing* that further steps should be taken to facilitate the conclusion of Euro-Asian rail transport contracts compatible with existing national legislation and the COTIF/CIM and SMGS regimes],

Acknowledging that in the light of existing differences in political systems and economic conditions applicable to rail operations along Euro-Asian rail transport links, the establishment of appropriate institutional and management structures — ensuring a balance of interests for Governments and railway enterprises — is an important issue in the elaboration of a unified transport law for Euro-Asian rail transport.

Declare the following

1. Ministers having signed the present Joint Declaration endeavour to jointly develop and strengthen cooperation in the area of Euro-Asian rail transport.
2. Ministers strive to pursue the following strategy (rail map) to establish legal conditions for railways equivalent with those existing for competing modes such as road and maritime transport:
 - (a) Establishment of a unified set of transparent and predictable provisions for Euro-Asian rail transport operations in all countries concerned that would eventually facilitate border crossing procedures, particularly for transit traffic;
 - (b) Unification of international railway law with the objective to allow rail carriage under a single regime from the Atlantic to the Pacific;
 - (c) Analysis of existing international modal transport (road, rail, air, maritime, inland navigation) and related agreements in order to identify provisions and procedures important for the establishment of unified railway law;
 - (d) Identification of an appropriate management system for a unified railway law including depositary, administrative and secretariat functions, based on best practices in international transport law;
 - (e) Development of legal rules applicable for [the unified railway law] and related issues;
 - (f) Support for the widest possible use of electronic document workflow and intelligent transport systems;
3. [Ministers examine the need to elaborate their position on appropriate institutional structures, using the experience of international organizations, such as OSJD, OTIF and other railway organizations].
4. Ministers invite interested railway enterprises, other stakeholders and international railway organizations to pursue, on the basis of the UNECE Position Paper towards unified railway law for Euro-Asian land transport (ECE/TRANS/2011/3), work on non-mandatory [model] rules for Euro-Asian rail transport contracts (GTC EurAsia) in line with the policy principles agreed upon by the UNECE Working Party on Rail Transport (SC.2) (ECE/TRANS/SC.2/2012/...) [in the annex to this Declaration]. The UNECE secretariat is invited to provide its good offices to facilitate such endeavours. Progress achieved should be reported [annually] to the UNECE Working Party on Rail Transport (SC.2).
5. Ministers welcome the work undertaken and progress made by UNECE towards unified railway law and invite UNECE to pursue [strengthen] its activities in this field [with a view to making rapid progress towards unified railway law], in particular on [the six (6) strategic priorities] contained in paragraph 2.
6. Ministers agree that further development and progress in the application of this Joint Declaration should be monitored at regular intervals [annually] by the UNECE Working Party on Rail Transport (SC.2) [under the authority of the UNECE Inland Transport Committee]. [The Working Party on Rail Transport (SC.2) may propose amendments to the Declaration for review and adoption by its Parties].

III. Amendments to the text of the draft Joint Declaration in Section II proposed by OTIF and OSJD

A. OTIF

(a) Preamble, ninth paragraph, starting with “Aware that Euro-Asian railways business ...”: OTIF is in favour of keeping references to the unions or organizations listed at the end of this paragraph, and particularly those dealing with Customs issues;

(b) Text of Declaration, third paragraph: While it is important to avoid unnecessary repetition, OTIF feels that this paragraph contains very important wording not included in paragraph 2 (b), namely “... using the experience of international organizations, such as OSJD, OTIF and other railway organizations”. This part of the sentence should therefore be transferred to paragraph 2 (b), if paragraph 3 is deleted;

(c) Text of Declaration, paragraph 5: OTIF proposes to delete the text in square brackets “[with a view to making rapid progress towards unified railway law]” as it contains repetitive information;

(d) Text of the Declaration, paragraph 6: In the last sentence, replace “Parties” with “Ministers.”

B. OSJD

(a) Preamble, third paragraph, starting with “Recognizing the potential ...”: Replace “rail transport operations” by “rail transport”;

(b) Preamble, fifth paragraph, starting with “Noting also ...”: Replace this paragraph with the following wording: “Noting also a positive growth trend in containerized transport between Europe and Asia, where the railways are meant to take a weighty role as an alternative mode of transport reducing thereby congestion in seaports”;

(c) Preamble, eighth paragraph, starting with “Convinced that...” (Russian only): Replace “длинные расстояния” by “дальние расстояния”;

(d) Text of Declaration, paragraph 4: Replace the paragraph with the following text: “Ministers invite interested railway enterprises, other stakeholders and international railway organizations, on the basis of paragraph 1 of the UNECE position paper, to carry out work on development of rules for Euro-Asian rail transport contracts as a separate direction following the principals of voluntariness in creating universal contractual relationship between railway enterprises and their customers on certain types of rail freight transport operations and certain types of goods”;

(e) OSJD also points out that it is inadmissible to include policy principles for the application of General Terms and Conditions for Euro-Asian Rail Transport Contracts (GTC EurAsia) as an Annex to the Declaration; since these can only be developed at a later stage as an individual document and will be approved by stakeholders.