
**Thematic Working Group on Sustainable Transport, Transit and
Connectivity (TWG-STTC)**

23rd Session
27-28 August 2018
Astana, Kazakhstan

Progress toward Unified Railway Law

(Item 4.5 of the Agenda)

Note by UNECE

1. Unlike air, maritime and road transport, railway freight transport is the only mode that does not benefit from a globally uniform or at least harmonized legal framework providing for contractual relation between shipper and the transport operator. Thus railways cannot compete even on international long-distance routes on a level playing field with other modes of transport. In light of the fast growing trade between Europe and Asia and between East and West Europe, it is a rather unfortunate situation. It also works against the efforts on sustainable development as in the pan-European context or between Europe and Asia, rail freight transport cannot serve the growing demand although the dense European rail network and its linkages to other regions via Central Asia, Eastern Europe and Turkey could in principle provide viable, economic and sustainable transport alternatives to long-distance road (and potentially maritime) transport.
2. To remedy this situation in 2013 during the seventy-fifth jubilee session of the Inland Transport Committee (ITC) 38 transport ministers and other high-level representatives signed on 26 February 2013 a Joint Declaration that could pave the way towards negotiation of a Unified Railway Law (URL) making rail freight transport between Asia and Europe and later in the whole world easier, faster and cheaper.
3. There was consensus among Governments that the establishment of an overall (third) layer of international railway law, in addition to COTIF/CIM and SMGS, should be avoided, not least to avoid conflict of conventions. Similarly, the creation of a new international railway regime replacing COTIF/CIM and SMGS in their entirety would be complex and would require considerable time due to long transition periods for entry into force and for denunciation of COTIF/CIM and SMGS.

4. Therefore, the UNECE secretariat presented an alternative concept for an international legal railway regime that, while leaving the present two regimes untouched, would fill the gap left by COTIF/CIM and SMGS for use of a single rail transport contract, a single consignment note and a single liability system for Euro-Asian rail transport. This regime would allow a level playing field for rail transport from the Atlantic to the Pacific that is comparable to other modes of transport.

5. In 2014 a draft new Convention has been prepared by the Group of Experts towards the Unified Railway Law, which is not a third law that contradicts COTIF/CIM and SMGS, but it is the result of the unification of the two regimes. This regime would allow rail transport from the Atlantic to the Pacific on the same legal basis as is today only possible for road and air transport. This approach:

- a) Takes advantage of good practices from both existing conventions by creating a unified one;
- b) Prepares an effective solution for international rail transport and the market today;
- c) Avoids conflict of conventions since the unified railway regime applies where COTIF/CIM and SMGS do not apply;
- d) Offers a solution for businesses before a time consuming full unification can become feasible;
- e) Consequently it does not warrant the elimination of the two existing regimes and their managing organizations, at least not today.

6. During the seventy-eighth session of the Inland Transport Committee (February 2016) a resolution (ECE/TRANS/2016/17) on Unified Railway Law was considered and adopted. ITC welcomed the work undertaken so far and report prepared by the Group of Experts towards the Unified Railway Law, and asked for preparation of the necessary documents for rail transport following the legal provisions already prepared as well as to monitor results of pilot tests.

7. During the eightieth session of the Inland Transport Committee (ITC) on 20-23 February 2018 the continuation of Group's work for two more years was approved and its new terms of reference were considered and adopted (ECE/TRANS/2018/13/Rev.1).

8. In line with the Joint Declaration on Euro-Asian Rail transport and Activities towards URL, signed at the ECE ministerial meeting "Making the Euro-Asian Transport Network Operational" on 26 February 2013, as well as with the draft legal provisions towards URL prepared by the Group of Experts; the Group, during this phase, will focus its work on the following issues:

(a) Monitor the finalization of necessary documents in order to perform international rail transport under URL including a standard model for the consignment note for the new provisions and its manual;

(b) Monitor the performance of a substantial number of real pilot tests to be carried out by the railway companies involved in the Group along the corridors agreed and along other corridors if proposed by governments in order to ensure the operational validity and effectiveness of the legal provisions prepared;

(c) Draft a document (or systems of documents) on URL which could be adopted as a legally binding instrument; the document (or systems of documents) shall:

- take into account the draft legal provisions on the contract of carriage already prepared;
- include the necessary formal provisions such as depository, management, secretariat, administrative committee, amending procedures, voting rights, etc.;
- be structured in a way which allows to easily supplement it with provisions on other issues related to international rail freight transport where the Group considers it appropriate to do so.

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.63 cm + Indent at: 1.27 cm

(d) Discuss other relevant issues related to international rail freight transport with a view to adding, where appropriate, provisions to the document referred to in point (c); these issues may include:

- Common provisions on dangerous goods;
- Common provisions on the use of freight wagons;
- Common provisions on rail infrastructure; and
- Common provisions on rolling stock.

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.63 cm + Indent at: 1.27 cm

9. The next session of the Group of Experts is scheduled to be held at the Palais des Nations in Geneva from 29 to 31 October 2018. The Inland Transport Committee during its Seventy-ninth session (21-24 February 2017) was informed about the results of the Group of Experts during 2016. Governments agreed that the pilot tests are important to evaluate the applicability and efficiency of the proposed legal provisions. The organization and implementation of these pilot tests is a time-consuming process that has to be developed in a structured and commonly agreed way among the main stakeholders. The adoption of the rail map is a concrete step forward and a tool for the railway undertakings to perform these pilot tests. However, more time were needed to perform these pilot tests. ITC approved the request of SC.2 to extend the mandate of the Group of

~~Experts towards Unified Railway Law based on the same Terms of Reference (ECE/TRANS/2016/18) for one more year, in order to finalize the draft legal provisions.~~

~~8. The next session of the Group of Experts is scheduled to be held at the Palais des Nations in Geneva from 1 to 3 November 2017.~~

The Thematic Working Group may wish to

- Give its support to the preparation and implementation of the Unified Railway Law;
- Encourage Governments to actively participate in the activities of the Group of Experts towards the Unified Railway Law and provide comments on draft legal provisions towards the Unified Railway Law.