



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

Geneva, 7-9 July 2020

Item 2 of the provisional agenda

Execution of the Mandate of the Group of Experts**The work of the Group of Experts Towards Uniform Railway Law during its extended mandate****Submitted by Germany****I. Introduction**

1. At its eighty-second session the Inland Transport Committee (ITC) “approved the extension of the mandate of the Group by one more year (two meetings) to complete its mandate”. The Committee based its decision on the work undertaken by its Working Party on Rail Transport (SC.2) which had decided, at its seventy-third session, more specifically, “to extend the mandate of the Group for two more sessions, to be held in 2020, under the current Terms of Reference, as set out in document ECE/TRANS/2018/13/Rev.1 to conclude on tasks (c) and (d) and to report to the Working Party at its seventy-fourth session in November 2020.”

2. The present document aims at promoting a consensus on the work which needs to be undertaken during the extension granted by ITC and SC.2.

II. Mandate of the Group for the two additional sessions

3. SC.2 instructed the Group “to conclude on tasks (c) and (d) of the current Terms of Reference, as set out in document ECE/TRANS/2018/13/Rev.1”. These sections should now be considered the mandate of the Group for the two additional sessions. They read as follows:

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

- (i) take into account the draft legal provisions on the contract of carriage already prepared;
- (ii) include the necessary formal provisions such as depository, management, secretariat, administrative committee, amending procedures, voting rights, etc.;

- (iii) 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;
- (d) Discuss other relevant issues related to international rail freight transport with a view to adding, where appropriate, provisions to the document referred to at (c); these issues may include:
 - (i) Common provisions on dangerous goods;
 - (ii) Common provisions on the use of freight wagons;
 - (iii) Common provisions on rail infrastructure;
 - (iv) Common provisions on rolling stock.”

III. Objective of the work during the two additional sessions

4. The Group has already held a large number of sessions and has requested renewal and extension of its mandate several times. Therefore, the Group should strive to deliver concrete results within the additional period of time granted by ITC and SC.2. If the Group cannot demonstrate in its report to SC.2 that it concluded on the tasks mentioned above or, at least, made significant progress to achieve concrete results it will probably be difficult for SC.2 and ITC to justify another extension of the Group’s mandate.
5. The first and foremost concrete result we need to achieve is to agree on a draft URL convention on the contract of international carriage of goods by rail, as the Group is instructed to prepare pursuant to letter (c) of its mandate. Along with that text the Group should consider proposing to SC.2 future work on other relevant issues related to international rail freight transport, which could eventually lead to the creation of a system of URL conventions.
6. This approach would also be in line with the previous work of the Group. As indicated in point 16 of its report on the execution of its 2018-2019 mandate (ECE/TRANS/SC.2/2019/4), the Group has already reached the conclusion that URL should be developed as a system of conventions.

IV. The two work streams in detail

URL convention on the contract of international carriage of goods by rail

7. As acknowledged by section (c) (i) of the Group’s mandate most of the work for a URL convention on the contract for international carriage of goods by rail has already been carried out in the past years. This includes the draft of relevant legal provisions (document ECE/TRANS/2016/15), the draft preamble (document ECE/TRANS/SC.2/GEURL/2019/10) and the draft final provisions (document ECE/TRANS/SC.2/GEURL/2019/11).
8. At past sessions concerns were raised as to whether the provisions already developed could conflict with national regulatory or administrative requirements. In order to accommodate these concerns the Secretariat proposed to set out the relation between the contract of carriage and public law regulating the execution of carriage by railway more clearly by supplementing Article 4 (cf. document ECE/TRANS/SC.2/GEURL/2019/15).
9. Furthermore, on request from the Group, the Secretariat proposed provisions on a negotiable transport document which could be included in the draft URL convention (cf. document ECE/TRANS/SC.2/GEURL/2020/3).
10. No other issues were raised in a manner which allowed the Group to discuss them thoroughly and to decide on how to take them forward.
11. At the twenty-second session consensus should be reached on the substance of the texts referred to above. The Secretariat should then be tasked to prepare a consolidated

version for proof-reading at the twenty-third session. This would allow the Group to report conclusion of letter (c) of its mandate as was requested by SC.2.

Addressing other relevant issues related to international rail freight transport

12. The German delegation considers that the Group should openly discuss whether there are other issues related to international rail freight transport, which need to be addressed in an international legal instrument. These issues may include the topics listed in sections (d) (i) through (d) (iv) of the Group's mandate.

13. Past discussions showed that not all delegations are convinced of the current need to regulate at international level issues other than the contract of carriage of goods, and this is for various reasons (cf. e.g. document ECE/TRANS/SC.2/GEURL/2019/5, section III.B). Broadening the Group's focus to other issues would also have a significant impact on its working methods. For example, delegations would need to consult other experts having the appropriate knowledge and experience as regards these other issues.

14. Introducing other issues such as those listed in sections (d) (i) through (d) (iv) of the Group's mandate must therefore be duly justified and prepared. As is customary practice today for preparing legislation it must be clearly demonstrated that there is an urgent need or at least a significant added value to regulate these issues at international level. This analysis needs to take into account how these issues are dealt with today, the views of the industry concerned, the advantages and disadvantages of international regulation, costs and benefits, etc.

15. The Group should discuss issues submitted by delegations in due time and accompanied by a justification in the manner described above at its twenty-third session. It should then decide which of these issues merit further deliberations and should be included in the report to SC.2 along with the draft of the URL convention on the contract of international carriage of goods by rail.

V. Conclusion

16. The extra time period given to the Group is rather limited. The Group will only be able to achieve the results expected by ITC and SC.2 if it can focus on its substantive work. To that end, the German delegation suggests the Group to consider and agree on the proposals presented above.
