
Project Working Group on Transport and Border Crossing (PWG-TBC)

20th Session
10-11 September 2015
Almaty, 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.

The Project 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 Convention.

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