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SAFETY AND SECURITY IN RAILWAY TRANSPORT

**Review of relevant international Agreements and other legal instruments
in the area of rail safety and security**

Note by the secretariat

Note: At its fifty-eighth session, the Working Party, while discussing railway safety and security, noted a lack of comprehensive information on the existence of rail safety and security provisions in the relevant international Agreements and other legal instruments. To facilitate further discussion of the subject, the Working Party asked the secretariat to prepare a note which would provide such information to member Governments.

Background

At its fifty-sixth session in 2002, the Working Party adopted the definition of railway safety as “the socially required level of absence of risk of danger in the rail transport system where risk relates to personal accident, injury or material damage”. Furthermore, the Working Party also adopted the definition of security in railways – “the protection of human beings, transport means and transport infrastructure against unauthorized and unexpected actions of any kind”.

In ensuing sessions, the Working Party noted the growing importance attached to safety and security in railway transport by both member Governments and international organizations. In order to avoid duplication and overlap with other involved international fora, the Working Party decided to continue closely monitoring developments in this field and other related activities carried elsewhere (EC, ECMT, UIC, etc.) . To this end, the secretariat submitted a note to the Working Party in 2004 (TRANS/SC.2/2004/2) which outlined work carried out in other international fora, national responses and new challenges emerging from the current security threats. The document concluded by proposing several ways in which the Working Party could carry out its future activity in this area.

In order to continue providing substantive contribution towards developing practical guidance to member Governments, the Working Party may wish to consider the following information.

UNECE

The UNECE legal instruments in the field of rail transport cover transport infrastructures and, partially, refer to border crossing facilitation. The European Agreement on Main International Railway Lines (AGC), of 31 May 1985 does not have any specific provisions regarding the safety and security of rail transport infrastructure.

Aware of the particular safety risk in rail tunnels, the UNECE Governments established in 2002 a Multidisciplinary Group of Experts on Rail Safety in Tunnels. The Group completed its work at the end of 2003 and presented its recommendations to the Inland Transport Committee in February 2004.

Conscious of the strong necessity for developing commonly agreed recommendations with the aim of harmonizing safety principles across Europe, the Group has made an effort to offer to the member Governments a set of recommendations that might be instrumental in preventing tunnel accidents and increasing the overall level of safety in rail tunnels. The Group’s recommendations for safety in new tunnels have been prepared in a coordinated manner and include safety measures related to the infrastructure, rolling stock and operations. These are aimed at minimizing the risk of accidents in tunnels and maximizing, at the same time, the economic efficiency of tunnel construction and operations.

The Group has made recommendations for improving the safety of existing tunnels. These are aimed at minimizing the risk of accidents. The Group has concluded with some standards for minimum safety measures, general recommendations, and several interoperability recommendations.

Legal instruments in the area of railway border crossing facilitation¹, also do not have any provisions referring particularly to safety or security.

In 1995, the Working Party on Rail Transport undertook an exercise to examine the various approaches of Governments to railway safety. In order to have an overview of the subject, the Working Party circulated a questionnaire containing seven questions asking Governments to provide information on various aspects of their approach to safety (TRANS/SC.2/R.210). Results obtained through this inquiry have confirmed that some member countries were more advanced than others in their approaches to safety, and setting up the safety requirements for railway transport.

Following this, in 1998 the Working Party examined the information provided by different Governments on the application of risk assessment techniques to railway safety.

In 1999, the Working Party asked the representative of the Netherlands to provide a copy of the guidelines applied for risk assessment policy. The contribution from the Netherlands (TRANS/SC.2/1999/4) gave an overview of the use of risk analysis as an instrument for risk management policy. On the basis of contributions from the Governments of France, Germany, the Netherlands and the United Kingdom and by the International Union of Railways, the secretariat produced a note of synthesis (TRANS/SC.2/1999/4/Add.1). The document provided a short overview of the risk assessment which was defined as a systematic approach to achieving higher safety levels at lowest costs. The document outlined the possible follow-up activities and member Governments continued to be periodically asked to provide information to the Working Party on their new developments in the field of safety in railway transport.

ECMT

The European Conference of Ministers of Transport's essential contribution in the area of transport security and terrorism is the Declaration on combating terrorism in transport, adopted by the Council of Ministers in Bucharest in 2002. In this Declaration, the Ministers agreed to promote a co-ordinated inter-modal framework for security in transport, to share experience and best practice in combating terrorism, to provide support for risk and vulnerability assessment, and to develop training in emergency procedures. This Declaration, however, does not have particular provisions referring to railway transport.

International Union of Railways (UIC)

UIC has been working in the area of railway safety from its establishment. The work on particular issues in the area of railway security is of a more recent origin. More information on UIC activities in the area of railway safety and security is available in documents TRANS/SC.2/2005/Add.1 and Add.2.

¹ International Convention to Facilitate the Crossing of Frontiers for Goods Carried by Rail, and International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, both of 10 January 1952, as well as International Convention on the Harmonization of Frontier Controls of Goods of 21 October 1982

European Union

Railway safety in the EU is governed by the Directive 2004/49/EC, of the European Parliament and of the Council of 29 April 2004, on safety on the Community's railways. The Directive focuses on four major aspects:

- the setting up, in each Member State, of an authority responsible for supervising safety;
- the mutual recognition of safety certificates delivered in Member States;
- the establishment of common safety indicators (CSIs) in order to assess that the system complies with the common safety targets (CSTs) and facilitate the monitoring of railway safety performance; and,
- the definition of common rules for safety investigations.

The deadline for transposition in the Member States is 30 April 2006.

Safety rules and standards, such as operating rules, signalling rules, requirements on staff and technical requirements applicable to rolling stock have been developed mainly nationally and a variety of bodies deal with railway safety in EU Member States. Aware of the multitude of these national safety rules which are often based on national technical standards, the Commission believes that they should gradually be replaced by rules based on common standards. The new national rules should, furthermore, be in line with the EU legislation and facilitate migration towards a common approach to railway safety.

The Directive applies to the railway system of the Member States and covers safety requirements for the system as a whole, including infrastructure and traffic management, and the interaction between railway undertakings and infrastructure managers.

Another safety aspect – transport of dangerous goods – is governed in the EU by the Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail, amended by Council Directive 2000/62/EC of 10 October 2000, as well as Commission Directive 2004/89 of 13/09/2004, and 2004/110/EC of 9 December 2004.

This Directive applies to the transport of dangerous goods by rail within or between Member States. Transport is authorized provided that it takes place in accordance with the standards laid down in the Directive and in particular in the Annex thereto.

Other legal documents relevant for the transport of dangerous goods are Commission Decision 2002/885 of 7 November 2002 amending Council Directive 96/49/EC as regards the time limits within which pressure drums, cylinder racks and tanks for the transport of dangerous goods by rail must comply with it; Commission Decision 2003/628 of 20 August 2003 authorizing Member States pursuant to Directive 96/49/EC to adopt certain derogations with regard to the transport of dangerous goods by rail; Annexes A and B to Council Directive 96/49/EC as announced in Commission Directive 2001/6/EC adapting for the third time to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail, and Council Directive 96/35/EC of

3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway.

Since 2001, terrorist attacks have highlighted the need to integrate security in the Commission's transport policy. In addition to legislation on air, maritime and port security, DG TREN is developing a policy on intermodal transport security. Intermodal security policy aims to protect the supply chain against serious interruptions from possible terrorist attacks.

In recent years, the EU accelerated introduction of the legislative security framework in the transport field. Both in aviation and in the maritime field, the EU has transposed the internationally agreed standards into Community legislation and is verifying that they are properly applied across the EU. In the near future, security in rail transport together with road and urban transport will be addressed much more thoroughly. To this end, at the end of 2003, the Commission launched a Consultation paper on Freight Transport Security seeking the views of interested parties on ways to improve the security of freight transport in the EU. In May 2004, the Commission organized a consultation meeting for Member States, industry and international organizations. These consultations revealed, among other facts, that: intermodal security has become a serious issue which needs addressing, and possible EU security measures should rather focus on terrorism than crime.

The aim of EU security policy in transport is to conceive and implement measures to improve security, mainly to protect citizens against terrorism. In the process, DG TREN cooperates with the other Commission services covering subjects of law enforcement administrations (police, justice, customs, etc), with Transport and Energy operators and with third countries and the relevant international institutions. DG TREN proposes legislation, implements inspection programmes and allocates funds for research. The concept of "security" includes all actions aimed at physical protection of energy facilities and infrastructures.

In October 2004, the Commission adopted an Information on the protection of vital infrastructures against terrorism. This Information announced a proposal for a 2005 European programme for protection of critical infrastructures (EPCIP programme). In the transport sector, the Commission will identify the essential measures aimed at further reinforcing measures already introduced by Member States in order to protect the critical infrastructures of European importance, and will accordingly make the necessary proposals.

Intergovernmental Organisation for International Carriage by Rail (OTIF)

The principal aim of the OTIF is to establish a uniform system of law applicable to the carriage of passengers and goods in international through traffic by rail between Member States, and to facilitate the application and development of this system.

The uniform rules currently applicable to international carriage by rail are contained in the Appendices to the Convention concerning International Carriage by Rail of 9 May 1980 (COTIF). Safety regulations relevant to transport of dangerous goods by rail are elaborated in the Annex I – Regulations concerning the International Carriage of Dangerous Goods by Rail (RID).

The development of the regulations concerning the carriage of dangerous goods by rail is a main task of OTIF. RID (Regulation concerning the International Carriage of Dangerous Goods by Rail) has about 1000 pages and is reissued every two years. Since 1993, work has been in progress on the legal and technical restructuring of RID. The legal restructuring was completed at the 5th General Assembly in June 1999 and RID became an independent Appendix to COTIF.

The technical work on restructuring RID was concluded with the entry into force of the 2001 edition on 1 July 2001. RID now differs from ADR (European Agreement concerning the International Carriage of Dangerous Goods by Road) and ADN (European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways) only in the mode-specific parts. In addition, harmonization of the content and structure of the provisions was achieved, to the greatest extent possible, with the UN Recommendations on the Transport of Dangerous Goods (UN Model Regulations).

Further development in RID is carried out in a two year cycle. The RID/ADR/ADN Joint Meeting, which meets twice a year, takes decisions on incorporating amendments from the UN Model Regulations that concern all modes. It also decides on proposals that jointly concern all the European land modes. The results of the RID/ADR/ADN Joint Meeting are submitted for final decision to the UN/ECE Working Party on the Transport of Dangerous Goods (WP.15) and the RID Committee of Experts. The RID Committee of Experts also decides on proposals that only concern the carriage of dangerous goods by rail.

In anticipation of the entry into force of the new COTIF, the current RID, hitherto available in German and French, was translated into English during 2004. The English edition was published in May 2005.
