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Working Party on Rail Transport

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FACILITATION OF INTERNATIONAL RAIL TRANSPORT

Legal instruments and projects for border-crossing facilitation

Note by the secretariat

I. INTRODUCTION

1. The Programme of Work of the Inland Transport Committee for 2006-2010 adopted at its sixty-eighth session (ECE/TRANS/166/Add.1, Item 2.5) requires the Working Party on Rail Transport to monitor the harmonization of requirements concerning international rail transport. The present document is submitted for consideration by the Working Party in compliance with that mandate on the basis of the information available to the secretariat.

2. At its sixty-first session in November 2007, the Working Party on Rail Transport (SC.2) took note of the progress made in the preparation of the draft of a new Annex 9 to the 1982 International Convention on the Harmonization of Frontier Controls of Goods, welcomed the proposed International Conference on Facilitation of Railway Border Crossing Procedures and recommended to all member Governments interested in amending, improving and up-dating the text of the 1952 Convention to Facilitate the Crossing of Frontiers for Passengers and Carriage carried by Rail to accede to the Convention and then initiate the relevant procedure (ECE/TRANS/SC.2/208, paras 3-5). The Working Party also asked involved organizations and

member governments to continue providing information about their planned and current monitoring of railway border-crossing procedures and requested the secretariat to keep this item on its agenda for future sessions (*ibid.*, para. 7). This note reviews the developments pertaining to the legal instruments as well as the initiatives and projects for border-crossing facilitation that have taken place since the sixty-first session of SC.2.

II. LEGAL INSTRUMENTS

3. The UNECE Working Party on Customs Questions affecting Transport (WP.30) considered the proposed new Annex 9 to the 1982 International Convention on the Harmonization of Frontier Controls of Goods at its one-hundred-and-eighteenth and one-hundred-and-nineteenth sessions in January-February 2008 and June 2008 respectively, based on a draft jointly submitted by the Intergovernmental Organization for International Carriage by Rail (OTIF) and the Organization for Cooperation between Railways (OSJD). However, further discussions have been deferred, pending consultation between these two organizations and the European Community, aimed at achieving consensus on the draft text.

4. With respect to the 1952 International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, the Russian Federation indicated at the one-hundred-and-nineteenth session of WP.30 its willingness to consider acceding to the Convention. OSJD reported during the same session that some of its other member states had also expressed interest to accede to the 1952 Convention. Given the absence of explicit amendment provisions in the 1952 Convention, WP.30 requested the secretariat to seek confirmation, through the Inland Transport Committee, from the Contracting Parties to the 1952 Convention that they would positively consider proposals to further amend the 1952 Convention, once more countries have acceded to it.

5. The Inland Transport Committee (ITC) had noted at its sixty-eighth session that in order to overcome barriers to the development of rail transport services in a pan-European context, one of the strategic elements for international traffic included the negotiation of a unified railway law resolving the present separation between the COTIF and SMGS regimes (ECE/TRANS/166, paras 95-96). The introduction of a common CIM/SMGS consignment note on selected East-West routes in 2006 can be seen as an intermediate step in this direction. Over the last year, the number of trains using the common consignment note increased noticeably with the introduction of new regular services between countries of the EU and CIS. The reduced time and cost of border-crossing of rail cargo, resulting from the use of the CIM/SMGS consignment note, have contributed inter alia to the development of foreign-invested automotive sector in the CIS.²

² For instance, regular shipments of car components by container block trains between Volkswagen-owned factories in Mladá Boleslav (Czech Republic) and Kaluga (Russian Federation) started in July 2008.

III. INITIATIVES AND PROJECTS

6. This section reviews briefly the status of various initiatives and projects related to border-crossing facilitation in the rail sector since the sixty-first session of SC.2. A number of border-crossing facilitation projects described in the document ECE/TRANS/SC.2/2007/1 (Action Plan Border Crossing of the UIC - ABC, SECI Ad hoc Working Group on the Reduction of Border Stopping Times of Shuttle Trains, TTFSE 2 of the World Bank, TER project of the UNECE, PWG-TBC of SPECA, and SEETO of the EU) have been inactive over the last year. Some of these projects were completed in earlier years (ABC in 2003, SECI in 2005 and TTFSE 2 in 2004).³ As regards to the ongoing TER project, the continuation of the border-crossing monitoring exercise described in document ECE/TRANS/SC.2/2007/1 had to be postponed due to lack of resources.⁴ The remaining two projects (PWG-TBC and SEETO) have continued to be engaged in rail border-crossing facilitation.

7. The Project Working Group on Transport and Border Crossing (PWG-TBC), a subsidiary body within the governing structure of the SPECA, has addressed border-crossing problems during its thirteenth annual session in Astana (Kazakhstan) (March 2008) while continuing to develop its database on border crossing.^{5, 6} When completed, the database will contain comprehensive information on work/operations executed, time norms and the real time and norms necessary for border-stopping operations.

8. The EU-funded South East European Transport Observatory (SEETO) has continued to collect data on waiting and border-crossing times for passenger and freight trains as well as other inland transport modes. The latest available data collection report (dated 7 July 2008) indicates that the border-crossing data submitted by Serbia were already confirmed while the data for the remaining project participants have either not been confirmed yet (Albania and Kosovo/UNMIK) or remained incomplete (Bosnia and Herzegovina, Croatia, Montenegro and The former Yugoslav Republic of Macedonia) <<http://www.seetoint.org/site/pdf/83-0db6.pdf>>.

9. On the political front, high-level participants at the third annual ministerial meeting for the development of the South-East Europe core regional transport network in Tirana on 12 April 2008 signed a political resolution as well as an addendum to the existing agreement for the creation of a South East Europe Rail Transport Area. The addendum aims to improve rail market access, open national markets, facilitate border crossings and ensure a high level of technical interoperability between the partners.

³ See 'Monitoring of progress made in the facilitation of border crossing in international rail transport' <<http://www.unece.org/trans/doc/2007/sc2/ECE-TRANS-SC2-2007-01e.pdf>>.

⁴ For a description of activities of the TER project over the last year, see document ECE/TRANS/SC.2/2008/1.

⁵ The United Nations Special Programme for the Economies of Central Asia (SPECA) was launched in 1998 to strengthen subregional cooperation in Central Asia. Current members of SPECA are Afghanistan, Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

⁶ See the Report on the thirteenth session of the Project Working Group and presentations available at the SPECA website: <http://www.unece.org/trans/main/speca/speca_13.html>.

10. The thirty-sixth Ministerial Meeting of the Organization for Cooperation of Railways (OSJD) in Kiev (10-13 June 2008) approved the work programme for 2009 and subsequent years that includes border-crossing facilitation as one of priority activities. In addition to the elaboration of recommendations and an action plan for selected OSJD corridors, the border-crossing work of OSJD is to include the organization of an International Conference on Facilitation of Railway Border Crossing Procedures mentioned above. The OSJD Committee has asked the Ministry of Transport of the Russian Federation and the Russian Railways Corporation (RZD) to consider the possibility of hosting this Conference in Russia in 2010.

11. The International Union of Railways (UIC) held in March 2008 a preparatory meeting for the formation of a new Expert Group on international corridors, including a discussion of corridor priorities. In addition to the UIC, a number of international organizations took part in the meeting: CIT, New Partnership for Africa's Development (NEPAD), OSJD, UNECE, UNESCAP and World Customs Organisation (WCO). Representatives of Iranian Railways (RAI) also attended the meeting. The majority of participants emphasized the importance of non-physical obstacles to the provision of efficient rail transport services and the growing need for a unified law governing international rail transport of goods, especially in the context of Euro-Asian links. It was generally agreed that such a law should be codified within the United Nations system.

IV. CONCLUSION

12. In summary, the progress on the legal front over the last 12 months has been rather uneven. The adoption of the new Annex IX to the 1982 Harmonization Convention as well as the revival of the 1952 Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage through new accessions and subsequent amendments have advanced only marginally. However, the volume of rail traffic using the common CIM/SMGS note has expanded noticeably, revealing economic benefits of streamlined border-crossing procedures.

13. The growing acceptance of the notion that unified rail transport law is needed for competitive Euro-Asian land transport linkages has so far failed to generate the political momentum needed for the creation of an appropriate international legal instrument. The Working Party may wish to discuss the relevant preconditions for successful harmonization of the legislation governing international freight transport by rail.

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