

**ОРГАНИЗАЦИЯ СОТРУДНИЧЕСТВА ЖЕЛЕЗНЫХ ДОРОГ
(ОСЖД)
铁路合作组织
(铁组)**

ORGANISATION FOR CO-OPERATION BETWEEN RAILWAYS (OSJD)



ОСЖД 铁组
MINUTES
Session V

**International Conference
on adoption of the text of the Convention
on International Direct Railway Traffic**

**19-23 November 2018,
Republic of Poland, Warsaw**

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In accordance with the decision of Session IV of the International Conference on adoption of the text of the Convention on International Direct Railway Traffic (26-30 March 2018 , Warsaw, Republic of Poland), Session V of the Convention on International Direct Railway Traffic on adoption of the text of the Convention on International Direct Railway Traffic was held in Warsaw (Republic of Poland) on 19 - 23 November 2018 (hereinafter referred to as Session).

The delegations from the following Member States of the Organization for Co-operation between railways (hereinafter – OSJD) took participation in the Session:

Republic of Azerbaijan,
Islamic Republic of Afghanistan,
Republic of Belarus,
Republic of Bulgaria,
Hungary,
Socialist Republic of Viet Nam,
Georgia,
Republic of Kazakhstan,
People`s Republic of China,
Democratic People`s Republic of Korea,
Republic of Korea,
Republic of Latvia,
Republic of Lithuania,
Republic of Moldova,
Mongolia,
Republic of Poland,
Russian Federation,
Romania,
Slovak Republic,
Republic of Uzbekistan,
Ukraine,
Czech Republic,
Republic of Estonia

The Session was attended by the representatives from the European Union (EU), Eurasian Economic Commission (EEC) and the OSJD Committee.

The List of the Session participants is attached (*Annex A to these Minutes*).

The Session was chaired by Mr. Sergey Aristov, State Secretary- Deputy Minister of Transport of the Russian Federation.

The functions of the Secretary of the Session were executed by Mr. Tadeusz Szozda, Chairman of OSJD Committee.

On 23 November the Session was chaired by Mr. Bittel Andrzej, Deputy Minister of Infrastructure of the Republic of Poland.

In accordance with Article 5 of the Rules of Procedure for International conference on adoption of the text of the Convention on International Direct Railway Traffic (hereinafter – the Rules), the Credential Committee was set up, which was composed of representatives from the delegations of Hungary, Georgia, People`s Republic of China, Russian Federation and Ukraine, to examine credentials. The Committee examined the credentials. The Chairman of the Credential Committee Mr. Levan Tsurtsunia reported on the credentials available in accordance with Article 2 of the Rules with the following 22 delegations of the OSJD Member States: Republic of Azerbaijan, Islamic Republic of Afghanistan, Republic of Belarus, Republic of Bulgaria, Hungary, Socialist Republic of Viet Nam, Georgia, Republic of Kazakhstan, People`s Republic of China, Democratic People`s Republic of Korea, Republic of Latvia, Republic of Lithuania, Republic of Moldova, Mongolia, Republic of Poland, Russian Federation, Romania, Slovak Republic, Republic of Uzbekistan, Ukraine, Czech Republic, Republic of Estonia.

Based on the abovementioned information, in accordance with Article 11 of the Rules, Mr. Aristov, the Chairman of the Session, declared that the Session was quorate.

The Session participants took note that the representative from European Union had credentials signed by the President of the European Commission.

On 20 November 2018 at 14.30 hour, the delegation of Republic of Korea submitted the credentials in accordance with Article 2 of the Rules.

To prepare the Minutes of the Session V, the Conference established the editing group composed of representatives from delegations of Georgia, Republic of Kazakhstan, People`s Republic of China, Mongolia, Russian Federation.

Results of Discussion:

The Conference adopted the agenda as follows:

1. Election of the Deputy Chairman of the Conference from Republic of Poland.
2. Organization of the work of the Working group established by Session IV of the Conference.
3. Discussion of the text of the Convention on International Direct Railway Traffic.
4. Date and agenda of Session VI of the Conference.

Under Item 1 of the Agenda

In accordance with Article 7 “Election of the Chairman and its vice-chairmen” and paragraph 4 of the Article 15 “Adoption of decisions” of the Rules, Mr. Bittel Andrzej

(Republic of Poland) was, at the proposal of the Conference participant from the Republic of Poland, elected Deputy Chairman by the Session.

Under Item 2 of the Agenda

This item of the agenda was postponed to the next Session of the Conference in accordance with paragraph 3 of Article 10 of the Rules

Under Item 3 of the Agenda

The Conference considered and adopted the text of Articles 39-49 of draft Convention on International Direct Railway Traffic (hereinafter – draft Convention) (*Annex 1 to these Minutes*).

In the case where the proposals put forward for consideration in order to modify or supplement the text of draft Convention did not obtain the required number of votes, the text of draft Convention would be adopted, specified in paragraph 2 of Article 1 “Scope of Application”.

The provisions of Articles 39-49 of draft Convention were adopted after long-lasting discussions, in the course of which voting was conducted with regard to many of them. The detailed voting results are included in *Annex 2 to these Minutes in digital form*.

The following includes the course of discussion and the results of voting on individual Articles.

In accordance with paragraph 4 of Article 15 of the Rules, Option I of Article 39 “*Voting at the Committee meetings and meetings of Commissions*” was adopted by the Session as a basis for consideration.

12 delegations voted “In Favour” of this Option, which are as follows: Islamic Republic of Afghanistan, Republic of Belarus , Socialist Republic of Viet Nam , Georgia, Republic of Kazakhstan, People`s Republic of China, Democratic People`s Republic of Korea, Republic of Moldova, Mongolia , Russian Federation , Republic of Uzbekistan and Ukraine.

10 delegations voted “In Favour” of Option II: Republic of Azerbaijan, Republic of Bulgaria, Hungary, Republic of Latvia, Republic of Lithuania, Republic of Poland, Slovak Republic, Romania, Czech Republic and Republic of Estonia.

Voting No. 1

The delegation from the Republic of Kazakhstan made a proposal to delete paragraph 1 of Article 39 “*Voting at the Committee meetings and meetings of Commissions*”

The results of the voting:

“In Favour” – 10;

“Against” – 12;

The proposal was not adopted.

Voting No. 2

The delegation from People`s Republic of China made a proposal to draw up paragraph 2 of Article 39 “Voting at the Committee meetings and meetings of Commissions” in a wording as follows:

“2. Decisions at meetings of Commissions shall be taken by a two-thirds vote of delegations present at the meeting. Besides, as to the proposal to make amendments and additions to the Convention, to be submitted to the governing bodies for consideration, the decisions shall be taken by a four-fifth vote in accordance with Article 36, and as to the proposal to make amendments and additions in the rules resulting from the Convention, the decisions shall be taken by a three-fourth vote in accordance with Article 36”.

The results of the voting:

“In Favour” – 3;

“Against” – 17;

“Abstained” – 2

The proposal was not adopted.

Voting No. 3

The delegations from the Republic of Bulgaria and Romania made a proposal to draw up paragraph 2 of Article 39 “Voting at the Committee meetings and meetings of Commissions” in a wording as follows:

“2. Decisions at meetings of Commissions shall be taken by a simple majority of the votes of the experts present at the meeting, except for those at the Commission on Finance and Accounting where decisions shall be adopted on the principle of unanimity in accordance with one country-one vote principle”

The results of the voting:

“In Favour” – 13;

“Against” – 6;

“Abstained” – 3

The proposal was not adopted.

Voting No. 4

The delegations from Republic of Kazakhstan and Czech Republic made a proposal to delete paragraph 3 of Article 39 “Voting at the Committee meetings and meetings of Commissions”:

The results of the voting:

“In Favour” – 14;

“Against” – 2;

“Abstained” – 6

The proposal was not adopted.

Voting No. 5

The delegations from the Republic of Azerbaijan, Georgia, Republic of Uzbekistan and Ukraine made a proposal to draw up paragraph 2 of Article 40 “General provisions” in a wording as follows:

“2. Acts of the OSJD shall be of obligatory and/or recommendatory nature defined by the status of the act itself.”

The results of the voting:

“In Favour” – 17;

“Against” – 4;

“Abstained” – 1

The proposal was adopted.

Voting No. 6

The delegation from the Republic of Azerbaijan, Georgia, Russian Federation and Republic of Uzbekistan made a proposal to draw up paragraph 3 of Article 40 “General provisions” in a wording as follows:

“3. The procedure for preparation of acts of the OSJD shall be determined by the rules to be approved in accordance with paragraph 1.19 of Article 14 and paragraph 1.11 of Article 17 of this Convention.”

The results of the voting:

“In Favour” – 12;

“Against” – 3;

“Abstained” – 7

The proposal was adopted.

According to the results of consideration of paragraph 2 of Article 41 “Procedure for official publication of acts of the OSJD”, the Session decided to ensure consistency of this paragraph with a wording as follows:

“3. The procedure for preparation of acts of the OSJD shall be determined by the rules to be approved in accordance with the procedure laid down by the Ministers Conference and the Assembly within their competence”.

Voting No. 7

The Session decided to delete the former paragraph 2 of Article 41 “Procedure for official publication of acts of the OSJD”

The results of the voting:

“In Favour” – 21;

“Against” – 1;

The proposal was adopted.

Voting No. 8

The delegations from the Republic of Azerbaijan, Russian Federation and Republic of Uzbekistan made a proposal to draw up paragraph 2 of Article 42 “*Interpretation of Acts of OSJD*” in a wording as follows:

“2. Acts of the Assembly shall also be interpreted in such a way as to ensure consistency with the provisions of Acts of the Ministers Conference”.

The results of the voting:

“In Favour” – 17;

“Against” – 5;

The proposal was adopted. Therefore, the Session unanimously decided to delete Article 43 *“Interpretation of acts adopted by decision of the Assembly”*.

Voting No. 9

The delegations from the Republic of Azerbaijan, Georgia, People`s Republic of China, Republic of Uzbekistan, Ukraine and Czech Republic made a proposal to draw up a new paragraph 1 of Article 43 *“Resolution of disputes between or among OSJD Members or between OSJD Members and the OSJD”* in a wording as follows:

“1. In the event of any disagreement between two or more Members of the OSJD concerning the interpretation or application of this Convention, one of the parties shall notify the other party in writing about the dispute. The dispute may be resolved by means of consultations and negotiations between the parties”.

The results of the voting:

“In Favour” – 13;

“Against” – 10;

The proposal was not adopted.

Voting No. 10

The delegation from the Republic of Kazakhstan made a proposal to draw up a new paragraph 1 of Article 43 *“Resolution of disputes between or among OSJD Members or between OSJD Members and the OSJD”* in a wording as follows:

“1. In the event of any dispute concerning the interpretation or application of this Convention between two or more Parties, herewith one of the Parties shall notify another Party in writing on the disagreements available. The dispute available may be resolved by means of consultations and negotiations between the Parties and any other way mutually agreed upon by the Parties”

The results of the voting:

“In Favour” – 10;

“Against” – 12;

“Abstained” – 1

The proposal was not adopted.

Voting No. 11

In view of the fact that as a result of the previous voting procedures, the original wording of paragraph 1 of this Article remained, the delegation from the People`s Republic of China had to make a proposal to add paragraph 4 to Article 43 *“Resolution of disputes between or among OSJD Members or between OSJD Members and the OSJD”* in a wording as follows:

“2. Any Party may, during signature, ratification of or accession to this Convention, make a reservation concerning the provision of paragraph 1 of this Article with regard to the appeal of the dispute in the International Court of Justice”

The results of the voting:

“In Favour” – 14;

“Against” – 3;
 “Abstained” – 6

The proposal was adopted, but in view of the fact that according to the results of Voting No. 13, the wording of paragraph 1 had changed. The Chinese delegation agreed to withdraw its proposal.

Voting No. 12

The delegations from Georgia, Russian Federation, Ukraine and Czech Republic proposed a new name for Article 43 “*Resolution of disputes between or among OSJD Members or between OSJD Members and the OSJD*” in the following wording: “*Resolution of disputes between the OSJD Members*”

The results of the voting:

“In Favour” – 12;
 “Against” – 10;
 “Abstained” – 1

The proposal was not adopted.

Voting No. 13

The delegations from Georgia, Republic of Kazakhstan, Russian Federation, Republic of Uzbekistan and Czech Republic made a proposal to draw up paragraph 1 of Article 43 “*Resolution of disputes between or among OSJD Members*” in a wording as follows:

“1. In the event of any disagreement between or among two or more Members of the OSJD concerning the interpretation or application of this Convention, one of the Members of the OSJD involved in the disagreement shall notify other OSJD Members concerned about the commencement of the disagreement.

The dispute may be settled by means of consultations and negotiations. In case the dispute has not been settled within 180 days of written Notification, the matter shall, at the request of an OSJD Member involved in that dispute, be referred to the Ministers Conference for the purpose of resolving the dispute”.

The results of the voting:

“In Favour” – 16;
 “Against” – 4;
 “Abstained” – 3

The proposal was adopted.

The Session decided to delete paragraphs 2 and 3 of Article 43 from the text of the Convention, having made its wording as “*Resolution of disputes between or among OSJD Members*”. The adopted wording has no number.

Voting No. 14

The delegations from Georgia, Republic of Kazakhstan, People`s republic of China, Russian Federation, Republic of Uzbekistan, and Ukraine unanimously proposed a wording for paragraph 1 of Article 44 “*Disputes between and among economic entities*” in a wording as follows:

“1. Disputes between or among economic entities relating to the application of this Convention other international agreements concluded within the OSJD, acts of the OSJD

as well agreements relating to international railway traffic may, by written agreement between the parties to the dispute, be referred for consideration by conciliation procedure with the participation of an intermediary or arbitration established in accordance with the provisions of this Convention (hereinafter referred to as 'arbitration')”.

Voting No. 15

The delegations from Georgia and Czech Republic made a proposal to delete paragraph 3 of Article 44 *“Disputes between and among economic entities”*.

The results of the voting:

“In Favour” – 16;

“Against” – 7

The proposal was not adopted

Voting No. 16

The delegation from Republic of Kazakhstan proposed drawing up paragraph 3 of Article 44 *“Disputes between and among economic entities”* in a wording as follows:

“3. The Committee itself shall not settle disputes. Only Committee staff may administer the process of settling disputes, in accordance with the Conciliation Procedure Rules and the Arbitration Rules. The Ministers Conference shall approve the Rules of Procedure of the Committee for ensuring application of the Conciliation Procedure Rules and the Arbitration Rules”.

The results of the voting:

“In Favour” – 14;

“Against” – 9;

The proposal was not adopted

Voting No. 17

The delegations from the Republic of Azerbaijan, Russian Federation, Czech Republic and Republic of Estonia made a proposal to draw up paragraph 3 of Article 44 *“Disputes between and among economic entities”* in a wording as follows:

“3. The Committee itself shall not settle disputes. Only Committee staff recruited on a competitive basis may administer the process of settling disputes, in accordance with the Conciliation Procedure Rules and the Arbitration Rules”.

The results of the voting:

“In Favour” – 19;

“Against” – 3;

“Abstained” – 1

The proposal was adopted

Voting No. 18

The delegation from Georgia and Czech Republic proposed deleting Article 45 *“Arbitration agreement”*

The results of the voting:

“In Favour” – 3;

“Against” – 16;

“Abstained” – 4

The proposal was not adopted

Voting No. 19

The delegation from the Republic of Uzbekistan proposed deleting paragraphs 3-5 of Article 45 “*Arbitration agreement*”.

The results of the voting:

“In Favour” – 5;

“Against” – 10;

“Abstained” – 8

The proposal was not adopted

Voting No. 20

The delegation from the Republic of Kazakhstan proposed drawing up paragraph 3 of Article 45 “*Arbitration agreement*” in a wording as follows:

“3. The requirement referred to in paragraph 2 of this Article shall be deemed to be complied with if the arbitration agreement is concluded in any form which allows the information contained in it to be recorded or to be accessible for further use”.

The results of the voting:

“In Favour” – 19;

“Against” – 2;

“Abstained” – 2

The proposal was adopted

Voting No. 21

The delegations from Georgia and Republic of Uzbekistan made a proposal to delete paragraph 4 of Article 45 “*Arbitration agreement*”:

The results of the voting:

“In Favour” – 15;

“Against” – 8

The proposal was not adopted.

Voting No. 22

The delegation from Republic of Kazakhstan made a proposal to draw up paragraph 4 of Article 45 “*Arbitration agreement*” in a wording as follows:

“4. An arbitration agreement shall be deemed to be concluded in written form with regard to electronic messages if the information contained in it is accessible for its further use”.

The results of the voting:

“In Favour” – 2;

“Against” – 13;

“Abstained” – 8

The proposal was not adopted

Voting No. 23

The delegation from Ukraine made a proposal to delete paragraph 5 of Article 45 “*Arbitration agreement*”

The results of the voting:

“In Favour” – 5;

“Against” – 14;

“Abstained” – 4

The proposal was not adopted

Voting No. 24

The delegations from Georgia and Czech Republic made a proposal to draw up paragraph 2 of Article 46 “*Arbitrators*” in a wording as follows:

“2. In accordance with the arbitration agreement, disputes shall be settled by a sole arbitrator or by three arbitrators”.

The results of the voting:

“In Favour” –15;

“Against” – 7;

“Abstained” –1

The proposal was not adopted.

Voting No. 25

The delegation from Republic of Uzbekistan made a proposal to draw up paragraph 2 of Article 46 “*Arbitrators*” in a wording as follows:

“2. In accordance with the arbitration agreement, disputes may be settled by a sole arbitrator or by three arbitrators. If the parties have not determined the number of arbitrators or in the arbitrator agreement or the parties have not agreed upon the number of arbitrators within 90 days following the receipt of the respective notification about arbitration, the dispute shall be settled by a sole arbitrator, save in cases where the authorised person considers that the nature of the dispute calls for three arbitrators to be appointed.”

The results of the voting:

“In Favour” – 3;

“Against” – 14;

“Abstained” – 6

The proposal was not adopted

Voting No. 26

The delegation from the Russian Federation and Ukraine made a proposal to draw up paragraph 3 of Article 46 “*Arbitrators*” in a wording as follows:

“3. If a dispute is to be considered by a sole arbitrator, he shall be appointed by mutual agreement of the parties. If the dispute is to be considered by three arbitrators, each party shall designate one of them and, by mutual agreement of the arbitrators, they shall determine the chair of the arbitration board. If the parties cannot, agree on the appointment of a sole arbitrator, or if the members of the arbitration panel appointed by

the parties cannot agree on the determination of the third member, he shall be determined by an authorised person. If the parties to the dispute are parties from different States, the sole arbitrator or the chair of the arbitration board shall be from a State to which neither party belongs”.

The results of the voting:

“In Favour” – 13;

“Against” – 6;

“Abstained” – 4.

The proposal was not adopted

Voting No. 27

The delegation from Georgia made a proposal to draw up paragraph 3 of Article 46 “*Arbitrators*” in a wording as follows:

“3. If a dispute is to be considered by a sole arbitrator, he shall be appointed by mutual agreement of the parties. If the dispute is to be considered by three arbitrators, each party shall designate one of them and, by mutual agreement of the arbitrators, they shall determine the third arbitrator who shall perform the duties of Chairman of the arbitration board. If the parties cannot agree on the appointment of a sole arbitrator, or if the members of the arbitration panel appointed by the parties cannot agree on the determination of the third member, he shall be determined by Chairman of OSJD Committee with drawing lots. If the parties to the dispute do not have one and the same place of registration, the sole arbitrator or the chairman of the arbitration board shall be from a State to which neither party belongs”.

The results of the voting:

“In Favour” – 3;

“Against” – 11;

“Abstained” – 9

The proposal was not adopted.

Voting No. 28

The delegation from the Czech Republic made a proposal to draw up paragraph 3 of Article 46 “*Arbitrators*” in a wording as follows:

“3. If a dispute is to be considered by a sole arbitrator, he shall be appointed by mutual agreement of the parties. If the dispute is to be considered by three arbitrators, each party shall designate one of them and, by mutual agreement of the arbitrators, they shall determine the third arbitrator who shall perform the duties of the Chair of the arbitration board. If the parties to the dispute do not have one and the same citizenship, the sole arbitrator or the chairman of the arbitration board shall be from a State to which neither party belongs”.

The results of the voting:

“In Favour” – 6;

“Against” – 8;

“Abstained” – 9

The proposal was not adopted.

Voting No. 29

The delegation from Republic of Uzbekistan made a proposal to draw up paragraph 3 of Article 46 “*Arbitrators*” in a wording as follows:

“3. If a dispute is to be considered by a sole arbitrator, he shall be appointed by mutual agreement of the parties. If the dispute is to be considered by three arbitrators, each party shall designate one arbitrator, in doing so the two arbitrators shall appoint the third arbitrator who shall perform the duties of chair of the arbitration board.

If the parties cannot, upon expiration of 60 days, agree on the appointment of a sole arbitrator, or if the members of the arbitration panel appointed by the parties cannot, upon expiration of 60 days, agree on the determination of the chair of the arbitration board, he shall be determined by an authorised person. If the parties to the dispute do not have one and the same citizenship, the sole arbitrator or the chairman of the arbitration board shall be from a State to which neither party belongs”.

The results of the voting:

“In Favour” – 5;

“Against” –12;

“Abstained” –6

The proposal was not adopted

Voting No. 30

The delegation from Georgia and Czech Republic made a proposal to draw up paragraph 5 of Article 46 “*Arbitrators*” in a wording as follows:

“5 The authorised person shall be designated by Chairman of the Committee”

The results of the voting:

“In Favour” –3;

“Against” –18;

“Abstained” – 2

The proposal was not adopted

Voting No. 31

The delegations from Republic of Kazakhstan, People`s Republic of China and Russian Federation made a proposal to draw up paragraph 5 of Article 46 “*Arbitrators*” in a wording as follows:

“5. The authorised person shall be determined in accordance with the Arbitration Rules”

The results of the voting:

“In Favour” – 20;

“Against” – 1;

“Abstained” – 2

The proposal was adopted. Therefore, on the basis of unanimous agreement, the Conference decided to number it as 3, with further appropriate amendments to the numeration of paragraphs.

Voting No. 32

The delegation from Republic of Uzbekistan made a proposal to draw up Article 47 “*Provisional measures in arbitration proceedings*” in a wording as follows:

“Arbitration awards as well as rulings prescribing provisional measures adopted in the context of the settlement of disputes in arbitration shall be binding and enforced in accordance with current international agreements the parties to which are the States being the places of execution of arbitration awards, and national legal acts governing the recognition and enforcement of arbitration awards”.

The results of the voting:

“In Favour” – 3;

“Against” – 11;

“Abstained” – 9

The proposal was not adopted.

Voting No. 33

The delegations from People`s Republic of China and Russian Federation made a proposal to draw up Article 47 “Provisional measures in arbitration proceedings” in a wording as follows: *“Arbitration awards as well as rulings prescribing provisional measures adopted in the context of the settlement of disputes in arbitration shall be binding and final and enforced in accordance with current international agreements and national legal acts governing the recognition and enforcement of arbitration awards”.*

The results of the voting:

“In Favour” – 13;

“Against” – 4;

“Abstained” – 6

The proposal was not adopted.

Voting No. 34

The delegation from the People`s Republic of China made a proposal to add a wording to Section 13 “Resolution of disputes” as follows:

“The parties to the dispute shall bear the costs for arbitration proceedings or conciliation procedures”.

The results of the voting:

“In Favour” – 5;

“Against” – 10;

“Abstained” – 8

The proposal was not adopted.

People’s Republic of China’s own opinion:

“The People’s Republic of China noted the need to stipulate in the Rules for conciliation procedures and arbitration that the parties to the dispute should bear the costs for arbitration proceedings or conciliation procedures costs”.

Voting No. 35

The delegation from Republic of Uzbekistan proposed adding the following wording to Section 13 “Resolution of disputes”:

“Any member of the OSJD has, during signature, ratification, adoption, approval of or accession to this Convention, the right to declare that it will not apply some provisions of this Section”.

The results of the voting:

“In Favour” – 5;

“Against” – 14;

“Abstained” – 4

The proposal was not adopted.

Czech Republic’s, Georgia’s and Republic of Uzbekistan’s own opinion:

In own opinion of the Czech delegation, Articles 45, 46, 47 and 48 should not be in the Convention but they must be regulated in the Regulations specified in Article 44.

The Czech delegation and Georgian delegation cannot agree on the situation that Article 46 applies a doubtful definition “authorized person” without clearly determining in the Convention as to who it is and who authorizes him, with referring to a future document of subordinate nature (Regulation). This issue needs to be finally tackled within the so-called “through proof-reading” from the point of view that the generally accepted legal practice is observed or otherwise”.

Uzbekistan’s own opinion with regard to Article 45:

“In view of discrepancies available in the legislation as well different levels of development of information technologies in the OSJD Member States, we believe it is advisable to delete paragraphs 3, 4 and 5 of Article 45 or add paragraph 6 to this Article with the wording as follows:

6. Any member of the OSJD has, during signature, ratification, adoption, approval of or accession to this Convention, the right to declare that it will not apply some provisions of this Article”.

Voting No. 36

The delegation from Ukraine proposed deleting paragraph 4 of Article 49 “General provisions”:

The results of the voting:

“In Favour” – 3;

“Against” – 19;

“Abstained” – 1

The proposal was not adopted.

Republic of Korea’s and People’s Republic of China’s own opinion

“In accordance with paragraph 2 of Article 16 of the Rules of Procedure of the Convention on International Direct Railway Traffic, the delegations from the Republic of Korea and People’s Republic of China hereby expresses the following its own opinion with regard to the procedures for adoption of the text of the Convention on International Direct Railway Traffic:

1. *The Republic of Korea and People's Republic of China call upon the delegations to consider and adopt the text of the Convention to avoid the redundancy of provisions of the Convention for better quality of the Convention. For example, we propose deleting paragraph 2 of Article 49 since this paragraph repeats the content of Articles 14 and 30.*
2. *The Republic of Korea and People's Republic of China underline that the purpose of the Conference to be conducted includes the adoption of the high-level text and believe that Article 49 has not been adopted and the re-consideration of this Article at the VI Session of the Conference is required.*
 3. *The procedures and principles for conducting the Convention, including the adoption tradition must be developed in written form and accessible to all the Members of the OSJD.*

The delegations' own opinion

The delegations of the Islamic Republic of Afghanistan, Socialist Republic of Viet Nam, People's Republic of China, Democratic People's Republic of Korea, Republic of Korea, Republic of Moldova, Mongolia and Russian Federation following the preamble of the Rules of procedure of the International Conference on adoption of the International Direct Railway Traffic, wishing to ensure the effective and productive Conference to be conducted, note that the issue of activity of the Working group established at the IV Session of the Conference has not been considered and has been postponed and included in accordance with paragraph 3 of Article 10 of the Rules of procedure in the draft agenda of the VI Session of the Conference for the reasons as follows:

- *A number of participants are not prepared for negotiations ("weak knowledge of the text of the Convention and "the background of the issue").*
- *New wordings of the provisions of the Articles are submitted straightforwardly during the Session without their prior transmission to the Conference participants.*
- *Numerous voting procedures for the provisions of draft Convention are available, which is not in line with the spirit of Article 14 of the Rules of procedure.*
- *The $\frac{3}{4}$ -vote principle for adoption of decisions to put forward the provisions of the Convention for consideration makes it impossible to transfer new wordings of the provisions of the Articles for consideration by the Working group.*

The delegations declare as follows:

- *The Conference participants should admit the fact that draft Convention put forward by decision of the Ministers Conference for agreement is a result of compromise of all the Members of the OSJD.*
- *A procedure for transmission of new wordings of Article of draft Convention to the Conference participants for prior consideration and development of positions.*
- *It is necessary to use the mechanism of the Working group between the Sessions for development of agreed wordings of the Articles of the Convention for further consideration by all the Conference participants.*

Taking into account the abovementioned ideas as well as the accumulated experience of the previous Sessions, the delegations believe that it is necessary to re-consider the provisions of the Rules of procedure of the International

Conference on adoption of the text of International Convention on International Direct Railway Traffic.

Under Item 4 of the Agenda

The Conference decided to hold Session VI of the Conference in Warsaw (Republic of Poland) on **25-29 March 2019** and adopted the provisional agenda as follows:

1. Adoption of the agenda of Session VI.
2. Organization of the work of the Working group established by Session IV of the Conference.
3. Consideration of the text of the Convention on International Direct Railway Traffic.
4. Date and agenda of Session VII of the Conference.

The Conference approved the provisional date for conducting Session VII of the Conference on 25-29 November 2019 in Warsaw (Republic of Poland).

During discussion of draft agenda for Session VI of the Conference the delegations from the Islamic Republic of Afghanistan, People's Republic of China and Russian Federation proposed adding a new item to draft agenda of Session VI:

“On changes and additions to the Rules of Procedure of the International Conference on adoption of the text of the Convention on International Direct Railway Traffic”

10 (ten) delegations voted “In Favour” of including the new item in draft agenda of Session VI, which are as follows: Islamic Republic of Afghanistan, Republic of Belarus, Republic of Kazakhstan, People's Republic of China, Democratic People's Republic of Korea, Republic of Korea, Republic of Moldova, Mongolia, Russian Federation, Republic of Uzbekistan.

11 (eleven) delegations voted “Against” the proposal, which are as follows: Republic of Azerbaijan, Hungary, Georgia, Republic of Latvia, Republic of Lithuania, Republic of Poland, Slovak Republic, Romania, Ukraine, Czech Republic and Republic of Estonia.

The Republic of Bulgaria and Socialist Republic of Viet Nam abstained.

In accordance with paragraph 4 of Article 15 of the Rules, the proposal was not adopted.