

**Analytical note  
concerning the principle of making decisions  
on the admission of new members to OSJD**

At the XXIX meeting (Sochi, 22-25.05.2012) the Ad Hoc Working Group on Updating Fundamental OSJD Documents (hereafter referred to as Ad Hoc WG) entrusted the Chairperson of the Ad Hoc WG to include in the draft decision on item 5 of the Agenda of the XL session of the OSJD Ministerial Conference (5-8.06.2012, Baku) the issue concerning the approval of the principle of voting on the admission of new members OSJD by seven eighths of OSJD members' votes that are present at the session. However, at the XL session of the OSJD Ministerial Conference this proposal was not supported by some OSJD members and a correspondent decision was not made. In this regard, at its XXX meeting (28-31.08.2012, OSJD Committee) the Ad Hoc WG familiarized itself with the procedures on the admission of new members to other relative international intergovernmental and non-governmental organizations and noted that any of them doesn't apply the principle of unanimity in making decisions on this issue. It must be underlined that the analyses covered only those organizations which are connected with the economic development of countries and don't deal with political issues in any way. The analyses of correspondent provisions of such organizations as OTIF, IMO, ICAO, CIT, UIC and CER clearly show that the decisions on the admission of new members are made by qualified majority voting. One example is ICAO: In accordance with the Chicago Convention the accession of a country to the Convention shall be performed by notifying the U.S. Government and is effective on the 30<sup>th</sup> day after notifying the U.S. Government that shall notify all other members of the Organization.

At the request of the Ad Hoc WG the Chairman of the OSJD Committee sent correspondent letters to the Ministers of Transport and Foreign Affairs of the Republic of Azerbaijan and DPRK with the proposal to reconsider their position on this issue.

In their replies the Embassy of the Republic of Azerbaijan in Warsaw as well as the CJSC "Azerbaijan Railways" favoured retaining the current principle of unanimity in admission of new members to OSJD. The Republic of Azerbaijan considers it necessary to include this principle in draft Convention.

An official reply from the DPRK was not received.

At the XXVIII meeting of the Conference of General Directors of OSJD Railways (22-26.04.2013, Odessa,) and the XL session of the OSJD Ministerial Conference (11-14.06.2013, Tallinn) the delegations from Azerbaijan and DPRK confirmed their position without providing any explanations.

In this regard, at its XXXV meeting (23-27.09.2013, Almaty) the Ad Hoc WG requested the Chairman of the OSJD Committee to address again Azerbaijan and DPRK on this issue and inform the Ad Hoc WG and the OSJD governing bodies about the results.

At its XXXI meeting (20-23.11.2012, OSJD Committee) the Ad Hoc WG considered and agreed on the compromised proposal by the member of the Ad Hoc WG from the Republic of Estonia on changing the wording of Article 32 paragraph 1 "Voting at sessions" of draft Convention in order to change the common principle on making decisions by 2/3 votes by a majority of  $\frac{3}{4}$  votes including the issue on the admission of new OSJD members.

At the XLII session of the OSJD Ministerial Conference (3-6.06.2014, Vilnius) the delegations from Azerbaijan and DPRK definitively confirmed their position concerning the necessity to retain the current principle of unanimity in admission of new members of OSJD and include it in draft Convention.

At its XLIII meeting (16-20.03.2015, OSJD Committee) the Ad Hoc WG finalized the text of the Article concerning the voting at sessions with the following wording:

### **«Article 36**

#### **Voting at sessions**

1. Decisions at a Ministers Conference session shall be adopted by three-quarters of the votes of the plenipotentiary bodies of the OSJD Members present at the session, save for decisions on the matters specified in subparagraphs 1.2, 1.3, 1.4, 1.6, 1.7, 1.10 and 1.14 of Article 14 of this Convention, decisions on which shall be adopted unanimously, and save for decisions on the matters referred to in subparagraph 1.11 of Article 14 of this Convention, decisions on which shall be adopted by four-fifth of the votes.
2. Decisions on the matters referred to in subparagraphs 1.6 and 1.7 of Article 14 of this Convention shall be adopted without the participation in the vote of the OSJD Member in respect of which the application of measures provided for in those subparagraphs is being considered.
3. An OSJD Member which is a party to a dispute as referred to in Article 44 shall not take part in the vote when the Ministers Conference considers that dispute.
4. The Ministers Conference shall adopt its decisions taking into account the proposals of the Assembly.»