FIVE: INTERNATIONAL LEGAL FRAMEWORK FOR TRANSPORT IN NORTH-EAST ASIA

5.1 INTERNATIONAL CONVENTIONS

International conventions related to transport are essential in facilitating the movement of goods, especially at border crossings, by reducing procedures and formalities and thus time required. In Europe, UNECE Inland Transport Committee, since its creation in 1947, has been a framework for intergovernmental cooperation and concerted action to facilitate international transport. Within the framework of the Committee, there are now 55 international agreements and conventions which provide the international legal and technical framework for the development of international road, rail, inland waterway and combined transport in the UNECE region. These international legal instruments address a wide array of transport issues including coherent international infrastructure networks, uniform and simplified border crossing procedures and uniform rules and regulations aimed at ensuring a high level of efficiency, safety and environmental protection in transport. While these legal instruments are important to all European countries, they are also applied by a large number of countries outside the UNECE region.¹

Since 1992, UNESCAP has played an active role in demonstrating the benefits of accession by the Asian countries to seven UNECE transport conventions. The main vehicle for UNESCAP in this role is resolution 48/11 of 23 April 1992. The seven international conventions covered by resolution 48/11 are listed in Table 5-1 below, which also indicates the status of each country in North-East Asia with respect to accession.

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Notes: Two dots (..) indicate that data are not applicable.
- x – party/acceded
- o – acceded after adoption of resolution 48/11
- s – signature

While some progress has been made so far, the achievement is uneven. Of the six countries in the North-East Asian region, as of July 2006, the Russian Federation has acceded to six out of the seven conventions. This performance is followed by Mongolia which has acceded to four conventions. China and the Republic of Korea have acceded only to one and two conventions of the seven conventions respectively while Democratic People’s Republic of Korea and Japan have acceded to none. The International Convention on the Harmonization of Frontier Control of Goods (1982) has thus far only been accepted by the Russian Federation, and no country in North-East Asia has acceded to Customs Convention on the Temporary Importation of Commercial Road Vehicles (1956).

This disparity in accession to the international conventions can lead to a number of negative consequences. One of these is the lack of territorial continuity of conventions caused by the non-accession by one or more states located between contracting parties. Because the provision of a convention can be invoked only when the states on both sides of the border are party to the convention, the need for widespread accession cannot be overemphasized. Lack of territorial continuity caused by the non-accession of states located between contracting parties can disrupt the application of the convention. For example, the Customs Convention on Containers (1972), which has been acceded by China, the Republic of Korea and the Russian Federation and the TIR Convention (1975) acceded by Mongolia, the Republic of Korea and the Russian Federation can be taken as cases in point in North-East Asia.

Accession to different versions of conventions is likely also to undermine facilitation objectives. For instance, although Japan has not joined any of international transport conventions listed in the UNESCAP resolution 48/11, it has acceded to some of their old versions, i.e., Convention on Road Traffic (1949), TIR Convention (1959) and Customs Convention on Containers (1956). The Republic of Korea also acceded to the Convention on Road Traffic (1949), while it remains as a signatory of the new version of the convention (1968).

The boxes below offer a brief introduction to the seven conventions recommended by resolution 48/11:
Box 5.1 Convention on Road Traffic

**CONVENTION ON ROAD TRAFFIC**  
(Vienna, 8 November 1968)

1 Purpose of the Convention is to facilitate international road traffic and to increase road safety through the adoption of uniform traffic rules.

2 Major obligations of Contracting Parties are:

   2.1 To take appropriate measures in accordance with national legal procedures, i.e., publication in the national public law journal and modification, if needed, of national laws, regulations and administrative instructions in line with the provision of the Convention.

   2.2 To take appropriate measures to ensure that the rules of the road conform in substance to the provisions of the Convention.

   2.3 To take appropriate measures to ensure that the rules concerning the technical requirements to be satisfied by motor vehicles and trailers conform to the Convention.

   2.4 To admit to the territories in international traffic motor vehicles, trailers, etc., which fulfills the conditions laid down in the Convention and whose drivers fulfil the conditions laid down in the Convention.

   2.5 To communicate to any other Contracting Party which requests the information necessary to determine the identity of the person in whose name a motor vehicle or a trailer is registered if the vehicle has been involved in an accident.

   2.6 To ensure that any measures which Contracting Party have taken or may take either unilaterally or under bilateral or multilateral agreements to facilitate international road traffic conform to the object of the Convention.

3 The Convention entered into force in May 1977 (As of July 2006, 36 Signatories and 63 Parties)

Box 5.2 Convention on Road Signs and Signals

**CONVENTION ON ROAD SIGNS AND SIGNALS**  
(Vienna, 8 November 1968)

1 Purposes of the Convention are to facilitate international road traffic and to increase road safety by keeping uniformity of road signs, signals and symbols and of road markings.

2 Major obligations of Contracting Parties are:

   2.1 To take appropriate measures in accordance with national legal procedures, i.e., publication in the national public law journal and modification, if needed, of national laws, regulations and administrative instructions in line with the provision of the Convention.

   2.2 To accept the system of road signs, signals and symbols and road markings described in the Convention and to undertake to adopt it as soon as possible.

   2.3 To undertake to replace or supplement, not later than four years from the date of entry, any sign, symbol, etc., which is used with a different meaning from that assigned to in the Convention.

   2.4 To undertake to replace, within fifteen years from the date of entry, any sign, symbol, etc., which does not conform to the system prescribed in the Convention.

   2.5 To limit number of types of sign and marking they adopt to what is strictly necessary, although the Contracting Parties are not required to adopt all the types of sign and marking prescribed in the Convention.

3 The Convention entered into force in June 1978 (As of July 2006, 35 Signatories and 53 Parties)
Box 5.3 Customs Convention on the Int’l Transport of Goods Under Cover of TIR Carnets

**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS**

(TIR Convention)

(Geneva, 14 November 1975)

1. Purpose of the Convention is to facilitate the international carriage of goods by road vehicle by simplifying and harmonizing administrative formalities in the field of international transport, in particular at frontiers.

2. The TIR Convention cannot be operational simply by accession. The International Customs Transit System established by the Convention operates on the basis of shared responsibilities between governments, transport operators, national guaranteeing associations, the International Transport Union (IRU) which issues the TIR Carnets, as well as a system of international insurance and re-insurance.

3. Major obligations of Contracting Parties include:

3.1 Obligations of Governments

   (i) To accept the Convention in accordance with national law (i.e., publication in the national public law journal)

   (ii) To take legal and administrative measures to authorize the operation of national guaranteeing organizations.

   (iii) To authorize persons to utilize TIR Carnets

   (iv) To publish the list of the Customs offices of departure, Customs offices en route and Customs offices of destination approved for accomplishing TIR operations.

   (v) To provide training of Customs officials in the operation of TIR Customs procedures

   (vi) To establish or designate an authority responsible for the approval of road vehicles and containers

   (vii) To deposit required documentation and information with the TIR Executive Board (TIRExB)

3.2 Obligations of national guaranteeing associations

   (i) To conclude a contract (agreement) of commitment with the national Customs authorities

   (ii) To conclude a written agreement on the functioning of the international guarantee system with an international organization (at present the International Road Transport Union (IRU) is managing the only existing international guarantee system)

   (iii) To conclude a declaration of commitment with the transport operator requesting TIR Carnets

   (iv) To issue TIR Carnets to approved transport operators

   (v) To transmit to the competent national authority of required documentation and information

3.3 Obligations of transport operators

   (i) To conclude a declaration of commitment with the national guaranteeing association

   (ii) To procure a certificate of approval for road vehicles and containers to be delivered by competent national inspection authorities

   (iii) To mount the TIR plate on road vehicles and containers

4. The Convention entered into force in March 1978 (As of July 2006, 16 Signatories and 66 Parties)
Box 5.4 Customs Convention on the Temporary Importation of Commercial Road Vehicles

**CUSTOMS CONVENTION ON THE TEMPORARY IMPORTATION OF COMMERCIAL ROAD VEHICLES**

(Geneva, 18 May 1956)

1. Purpose of the Convention is to apply provisions similar to that of the Customs Convention on the Temporary Importation of Private Road Vehicles (New York, 4 June 1954), so far as possible, to the temporary importation of commercial road vehicles and, in particular, to provide for the use, for those vehicles, of the Customs documents prescribed for private road vehicles in order to facilitate international movement of goods.

2. Major obligations of Contracting Parties include:

   2.1 To take appropriate measures in accordance with national legal procedures, i.e., publication in the national public law journal and modification, if needed, of national laws, regulations and administrative instructions in line with the provision of the Convention.

   2.2 To grant temporary admission without payment of import duties and import taxes and free of import prohibitions and restrictions, subject to re-exportation and to the other conditions laid in the Convention, to vehicles imported and used in international road traffic for commercial use.

   2.3 To allow the driver and other member of the crew of the vehicle to import temporarily a reasonable quantity of personal effects.

   2.4 To admit the fuel in the ordinary supply tanks of vehicles without payment of import duties and import taxes and free of import prohibitions and restrictions.

   2.5 To admit component parts for the repair of particular vehicle already temporarily imported without payment of import duties and import taxes and free of import prohibitions and restrictions.

   2.6 To endeavour not to introduce Customs procedures which might have the effect of impeding the development of international commercial road traffic.

   2.7 To endeavour to place Customs offices and posts close together and to keep them open during the same hours in order to expedite Customs procedures contiguous.

3. The Convention entered into force in April 1959 (As of July 2006, 12 Signatories and 40 Parties)

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Box 5.5 Customs Convention on Containers

**CUSTOMS CONVENTION ON CONTAINERS**

(Geneva, 2 December 1972)

1. Purpose of the Convention is to develop and facilitate international carriage by container.

2. Major obligations of Contracting Parties include:

   2.1 To take appropriate measures in accordance with national legal procedures, i.e., publication in the national public law journal and modification, if needed, of national laws, regulations and administrative instructions in line with the provision of the Convention.

   2.2 To grant temporary admission to containers fulfilling the requirements laid down in the Convention, whether loaded with goods or not, which shall be re-exported within three months (with possible extension) from the date of importation.

   2.3 To grant temporary admission to accessories and equipment of temporary admitted containers.

   2.4 To communicate to one another, on request, the information necessary for implementing the provisions of the Convention, and more particularly information relating to the approval of containers and to the technical characteristics of their design.

   2.5 To provide training of Customs officials in the operation of the Convention.

3. The Convention entered into force in December 1975 (As of July 2006, 15 Signatories and 34 Parties)
Box 5.6 International Convention on the Harmonization of Frontier Controls of Goods

**INTERNATIONAL CONVENTION ON THE HARMONIZATION OF FRONTIER CONTROLS OF GOODS**

(Geneva, 21 October 1982)

1. Purpose of the Convention is to facilitate the international movement of goods by reducing the requirements for completing formalities as well as the number and duration of controls, in particular by national and international co-ordination of control procedures and of their methods of application.

2. Major obligations of Contracting Parties include:

   2.1 To take appropriate measures in accordance with national legal procedures, i.e., publication in the national public law journal and modification, if needed, of national laws, regulations and administrative instructions in line with the provision of the Convention.

   2.2 To undertake, to the extent possible, to organize in a harmonized manner the intervention of the Customs services and the other control services.

   2.3 To ensure that the control services operate satisfactorily by providing a sufficient number of qualified personnel, equipment and facilities suitable for inspection, and official instructions to officers.

   2.4 To co-operate with other Contracting Parties and to seek necessary co-operation from the competent international bodies.

   2.5 To take appropriate measures whenever a common inland frontier is crossed to facilitate the passage of the goods.

   2.6 To provide, whenever possible, simple and speedy treatment for goods in transit, especially for those travelling under cover of an international Customs transit procedure, taking into account the situation of the land-locked countries.

   2.7 To provide training of Customs officials in the operation of the Convention.

3. The Convention entered into force in October 1985 (As of July 2006, 13 Signatories and 48 Parties)

Box 5.7 Convention on the Contract for the International Carriage of Goods by Road

**CONVENTION ON THE CONTRACT FOR THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD (CMR)**

(Geneva, 19 May 1956)

1. Purpose of the Convention is to standardize the conditions governing the contract for the international carriage of goods by road, particularly with respect to the documents used for such carriage and to the carrier's liability.

2. Major obligation of the Contracting Parties is:

   2.1 To take appropriate measures in accordance with national legal procedures, i.e., publication in the national public law journal and modification, if needed, of national laws, regulations and administrative instructions in line with the provision of the Convention.

   2.2 To ensure that the Convention is applied to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a Contracting Party.

   2.3 To provide training of judicial officials in the operation of the Convention.

3. The Convention entered into force in July 1961 (As of July 2006, 9 Signatories and 49 Parties)
5.1.1 China

China has acceded only to the Customs Convention on Containers (1972) out of seven international conventions regarding road and rail transport listed in the UNESCAP resolution 48/11. Other international conventions in the sphere of the transport ratified by China include:

- Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles, 1998
- Uniform Rules for a Combined Transportation Document, 1973
- UNCTAD/ICC Rules for Multimodal Transport Documents, 1991
- Convention on Facilitation of International Maritime Traffic (FAL Convention), 1965

China has also acceded to the World Customs Organization (WCO) conventions of importance to transit transport.

- International Convention on the Simplification and Harmonization of Customs Procedures, 1999
- International Convention on the Harmonized Commodity Description and Coding System, 1988

5.1.2 Democratic People’s Republic of Korea

The Democratic People’s Republic of Korea has not joined any of UNECE transport agreements and conventions including those listed in the UNESCAP resolution 48/11. In the maritime transport area, however, Democratic People’s Republic of Korea acceded to many of the IMO (International Maritime Organization) conventions including Convention on Facilitation of International Maritime Traffic (1965). Democratic People’s Republic of Korea has also signed the Convention on the Law of the Sea (1982), but is yet to ratify.

5.1.3 Japan

While Japan has not joined any of international conventions regarding road and rail transport listed in the UNESCAP resolution 48/11, it has acceded eight UNECE transport conventions, some of which are old versions of the conventions recommended by the UNESCAP resolution 48/11 as marked * on the list below.

- Convention on Road Traffic, 1949 *
- Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions, 1958
- Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles, 1998
- Convention concerning Customs Facilities for Touring, 1954
- Additional Protocol to the Convention concerning Customs Facilities for Touring, relating to the importation of tourist publicity documents and material, 1954
- Customs Convention on the Temporary Importation of Private Road Vehicles, 1954
- Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention), 1959 *
• Customs Convention on Containers, 1956 *
• International Convention on the Simplification and Harmonization of Customs Procedures, 1999

Japan has also acceded to the Convention and Statute on Freedom of Transit (Barcelona Transit Convention, 1921) and the Convention on the Law of the Sea (1982) and to most IMO conventions including the FAL Convention (1965).

5.1.4 Mongolia

Mongolia is the only country in North-East Asia that took actions following the adoption of the UNESCAP resolution 48/11 and acceded four of the seven conventions, but has not acceded to any of other UNECE transport agreements and conventions.

Mongolia has also acceded to Convention on Transit Trade of Landlocked States (New York Transit Convention, 1965) and Convention on the Law of the Sea (1982) and to many of IMO conventions but not to the FAL Convention.

5.1.5 Republic of Korea

The Republic of Korea has acceded to two of seven international conventions listed in the UNESCAP resolution 48/11, i.e., Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975) and Customs Convention on Containers (1972). While the Republic of Korea has been a signatory of the Convention on Road Traffic (1968) and the Convention on Road Signs and Signals (1968), it acceded to the old version of the Convention on Road Traffic (1949).

Other UNECE transport conventions and WCO conventions acceded by the Republic of Korea include:

• Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and /or be used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions, 1958
• Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be fitted and / or be used on Wheeled Vehicles, 1998
• International Convention on the Simplification and Harmonization of Customs Procedures, 1999

The Republic of Korea has also acceded to the Convention on the Law of the Sea (1982) and to major IMO conventions including the FAL Convention (1965).

5.1.6 Russian Federation

The Russian Federation has acceded to six out of the seven conventions recommended by the UNESCAP resolution 48/11, except the Customs Convention on the Temporary Importation of Commercial Road Vehicles (1956), to which no country in North-East Asia has acceded.
The Russian Federation has also acceded to many of other transport conventions of UNECE, IMO and WCO including:

- European Agreement on Main International Traffic Arteries (AGR), 1975
- European Agreement on Main International Railway Lines (AGC), 1985
- European Agreement on Important International Combined Transport Lines and Related Installations (AGTC), 1991
- European Agreement on Main Inland Waterways of International Importance (AGN), 1996
- European Agreement supplementing the Convention on Road Traffic (1968), 1971
- European Agreement supplementing the Convention on Road Signs and Signals (1968), 1971
- Protocol on Road Markings, Additional to the European Agreement supplementing the Convention on Road Signs and Signals, 1973
- Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions, 1958
- Agreement concerning the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of Such Inspections, 1997
- Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles, 1998
- European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR), 1970
- Convention on the Contract for the International Carriage of Goods by Road (CMR), 1956
- Convention relating to the Unification of Certain Rules concerning Collisions in Inland Navigation, 1960
- Convention relating to the Limitation of the Liability of Owners of Inland Navigation Vessels (CLN), 1973
- Convention on the Contract for the International Carriage of Passengers and Luggage by Inland Waterway (CVN), 1976
- Convention concerning Customs Facilities for Touring, 1954
- Additional Protocol to the Convention concerning Customs Facilities for Touring, relating to the importation of tourist publicity documents and material, 1954
- Customs Convention on the Temporary Importation of Private Road Vehicles, 1954
- European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR), 1957
- Protocol amending article 1 (a), article 14 (1) and article 14 (3) (b) of the European Agreement of 30 September 1957 concerning the International Carriage of Dangerous Goods by Road (ADR), 1993
- European Agreement Concerning the International Carriage of Dangerous Goods by Inland Waterway (ADN), 2000
- Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage (ATP), 1970
- Convention on Transit Trade of Landlocked States (New York Transit Convention), 1965
- Convention on Facilitation of International Maritime Traffic, 1965
5.2 BILATERAL AND MULTILATERAL TRANSPORT AGREEMENTS

Bilateral or multilateral agreements govern transport by road, rail or both at the borders and border stations between countries. This section summarizes major bilateral and multilateral transport agreements ratified by countries in North-East Asia.

5.2.1 China

China has established bilateral agreements in the transport area with neighbouring countries, including maritime transport agreements with all countries in North-East Asia.

- International Road Transport Agreement between the People’s Republic of China and Mongolia, 1991
- Agreement on the Transit Freight from China to Mongolia, 1991,

Multilateral/subregional agreements

China has participated in the negotiation of the following three subregional transport agreements:

- Agreement between and among the Governments of the Kingdom of Cambodia, the People’s Republic of China, the Lao People’s Democratic Republic, the Union of Myanmar, the Kingdom of Thailand and the Socialist Republic of Viet Nam, for Facilitation of Cross-Border Transport of Goods and People (GMS Cross-Border Transport Agreement), signed in 1999 and expected to be fully implemented in 2007/2008.
- Draft Agreement between the Governments of the Shanghai Cooperation Organization Member States on Facilitation of International Road Transport

5.2.2 Japan

Japan signed bilateral shipping agreements with China in 1975 and container shipping services on the China-Japan route started in 1976. China and Japan have been holding annual high-level bilateral consultation meetings on transport since 2004.

Japan has also participated in high-level bilateral consultations on transport and logistics with the Republic of Korea (in 2000, 2002 and 2004).
5.2.3 Mongolia

Mongolia has concluded many bilateral transport agreements with the China, the Republic of Ukraine, the Republic of Turkey, Russian Federation and the Republic of Belarus and pays special attention in their implementation.

*Road transport*

- International Road Transport Agreement with China, 1991
- International Road Transport Agreement with Ukraine, 1995
- International Road Transport Agreement with the Russian Federation, 1996
- International Road Transport Agreement with Turkey, 2002
- International Road Transport Agreement with Belarus, 2003
- International Road Transport Agreement with Kyrgyzstan, 2004

*Railway transport*

- The Agreement on the Transit Freight from the Russian Federation to Mongolia, 1991
- The Agreement on the Transit Freight from China to Mongolia, 1991

Mongolia has participated in negotiation of a trilateral agreement in North-East Asia – Draft Transit Traffic Agreement between the Governments of the People’s Republic of China, Mongolia and the Russian Federation.

5.2.4 Republic of Korea

Until 1996 the shipping and port policies of Korea had been controlled by the government. Neither foreign nor Korean shipping companies could enter the shipping market without the government’s permission. Upon joining the OECD in 1996, Korea opened the shipping market and abolished a number of restrictions. Following this deregulation, the shipping and port industry of Korea has been considerably liberalized.

At the present time, Korea recognizes the Convention on a Code of Conduct for Liner Conferences (UNCTAD Liner Code), which entered into effect in 1983, and has established shipping agreements with 16 countries, including China, Germany, the United Kingdom and the United States (Table 5-2), which have been granted most favoured nation treatment.

The Korean Government is trying to establish shipping agreements with additional countries – the Russian Federation, Islamic Republic of Iran, Latvia, Egypt.
Table 5-2  The status of shipping agreements with the Republic of Korea

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Source:  Ministry of Maritime Affairs and Fisheries of the Republic of Korea

5.2.5  Russian Federation

The major bilateral agreements in the sphere of the transport ratified by the Russian Federation are:

• Agreement Between the Government of the People’s Republic of China and the Federal Government of Russia on Maritime Transport Cooperation, 1993
• Agreement between the Government of the Russian Federation and the Government of Republic of Slovenia about Cooperation in the Sphere of Sea Transport, 2002
• Agreement between the Government of the Russian Federation and the Government of the Latvian Republic about principles of cooperation and conditions of mutual relations in the sphere of transport, 1995
• Agreement between the Government of the Russian Federation and the Government of the Portuguese Republic about the international automobile communication, 1994
• Agreement between the Government of the Russian Federation and the Government of Ireland about the International Automobile Communication, 1994
• Agreement on the International Transport Corridor ‘the North - the South’, 2000
• The Agreement on the Railway Transit Freight from Russian Federation to Mongolia, 1991.

The major trilateral agreements in the sphere of the transport ratified by the Russian Federation include Agreement between Ministry of Railways of the Russian Federation, the Ministry of Transport, Mails and Telecommunications of Slovak Republic and the Ministry of Transport of Ukraine about the International Railway Cargo Message between the Russian Federation, Slovak Republic and Ukraine and Transit Messages on Railways of these States, 1999

The Russian Federation has also participated in the negotiation of the following two subregional agreements: Draft Agreement between the Governments of the Shanghai Cooperation Organization Member States on Facilitation of International Road Transport and Draft Transit Traffic Agreement between the Governments of the People’s Republic of China, Mongolia and the Russian Federation.