



Economic and Social Council

Distr.: General
4 April 2017
English
Original: English and Russian

Economic Commission for Europe

Inland Transport Committee

Working Party on Customs Questions affecting Transport

146th session

Geneva, 13-16 June 2017

Item 5 of the provisional agenda

International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail

Convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail*

Transmitted by the Russian Federation and the Organization for Cooperation between Railways (OSJD)

Introduction

1. At its 145th session, the Working Party took note that the secretariat had issued Informal documents WP.30 (2017) No. 5 and No. 6 by the Government of the Russian Federation and by the Organization for Cooperation between Railways (OSJD), respectively, containing amendments to the text of the draft Convention, as contained in document ECE/TRANS/SC.2/2016/3. This draft had been prepared by the Informal Group of Experts, taking into account observations and remarks from Belarus, Poland, Russian Federation and Tajikistan.

2. The Working Party agreed that it would continue its discussions at the current session, on the basis of the amended text, as contained in Informal document WP.30 (2017) No. 5 and requested the secretariat to prepare such document (see ECE/TRANS/WP.30/290, para. 35-50). To that end, the secretariat prepared document ECE/TRANS/WP.30/2017/13, for consideration of the Working Party. The secretariat based the document on the English translation of the text, as submitted by the Government of the Russian Federation. However, in case of divergences, the Russian text should be considered as original.

* The text in Annex is based on Annex I of document ECE/TRANS/SC.2/2016/3. Changes, as contained in Informal document WP.30 (2017) No. 5 are in *italics underlined*, deletions are in ~~strikethrough~~.



Annex

The States ~~and regional economic integration organizations~~ that are parties to this Convention, hereinafter referred to as the “Parties”,

Recognizing the need to facilitate and expedite the crossing of borders in the international carriage by rail of passengers, luggage, and load-luggage, while maintaining the effectiveness of State control,

Given the importance of the safety, convenience, comfort and high quality of passenger service,

Noting the importance of reducing the running times of trains to increase the competitiveness of rail transport,

Have agreed as follows:

Chapter 1 Definitions

Article 1

For the purposes of this Convention, the following terms are used:

~~(a) “luggage” means items or objects belonging to a passenger and accepted by a carrier for carriage in a luggage wagon of a passenger train;~~

~~(b)~~ “rail transport infrastructure” (hereinafter “infrastructure”) means the technical facilities, including the rails and other structures; railway stations; electrical power supply equipment; communication networks; signaling, centralized control and blocking systems; information systems; traffic control system; and other systems ensuring the operation of such buildings, constructions, installations, devices and equipment;

~~(c)~~ “international carriage by rail” means the carriage of passengers, luggage and load-luggage by rail between two or more railway stations in different States, as well as transportation between the stations of a single State passing through the territory of another State or States;

~~(d)~~ “passenger ~~(or consignor)~~” means a physical person who makes a journey by train using a valid travel document (or ticket), or who has a travel document (or ticket) and is boarding or disembarking at a station, including on a passenger platform directly prior to or immediately after travel;

~~(e)~~ “consignor” means a physical person or a legal entity who transfers luggage or load-luggage for carriage and who is stated in the railway bill as the consignor as the consignor of the luggage or load-luggage;

(e) “carrier” means a legal entity whose business is the carriage of passengers, luggage and load-luggage and who ~~that~~ enters with a passenger (or consignor) into a contract of carriage pursuant to which it undertakes to deliver the passenger, the passenger’s luggage ~~checked by the passenger~~ or load-luggage from a railway station of departure to a railway station of destination;

(f) “railway checkpoint” means an area within a railway station, either at or in the vicinity of a border, or another specifically designated area in the direct vicinity of the border, with appropriate infrastructure and where the State control, operational and

administrative procedures required for the passage by rail of passengers, luggage and load-luggage are carried out;

(g) “hand luggage” means passenger belongings carried by embarked passengers and whose carriage is included in the fare ~~free of charge~~, not exceeding standard established weights and dimensions, and whose safekeeping is the responsibility of the passengers;

(h) “luggage” means items or objects belonging to a passenger and accepted by a carrier for carriage in a luggage wagon of a passenger train;

(i)¹ “load-luggage” means items accepted by the carrier from a physical person or legal entity in accordance with a procedure established by the legislation of the Parties for carriage in a luggage wagon of a passenger train;

(j) “infrastructure manager” means a legal entity authorized in accordance with the legislation of the Parties to provide services to legal entities or physical persons for the use of the infrastructure;

(k) “staff” means employees of the carrier or of other organizations aboard the train engaged in passenger service en route ~~and who are not a part of the train crew~~;

(l) “State control” means activities carried out by authorized State bodies and officials of the Parties when passengers, luggage or load-luggage cross a State border as part of international passenger transport by rail, with the purpose of preventing, detecting and suppressing infractions, including border, customs and ~~special~~ controls and other types of control established in accordance with the legislation of the Parties;

(m) “special control” means veterinary, health and quarantine, phytosanitary and other types of State control requiring the use of special forms and methods of implementation.

Article 2

This Convention regulates the following in relation to international carriage by rail:

(a) Organizing cooperation between the Parties and coordinating the work done by State control authorities to facilitate border crossing in international carriage by rail;

(b) Defining a range of measures to agree upon conditions for implementing State control and harmonize requirements for the documentation used therein and for State control procedures;

(c) Improving the efficiency of railway checkpoints and reducing the time needed for State ~~border~~ controls at borders;

(d) Organizing coordination of the work of representatives of the Parties’ border, customs and other State authorities implementing State border controls and of the Parties’ carriers.

Article 3

1. ~~The Parties may enter into provisions of this Convention shall not prevent the conclusion of bilateral agreements between the Parties~~ with the aim of achieving the Convention’s objectives and developing practical mechanisms for its application.

2. The conditions of the bilateral agreements shall complement ~~and~~ or clarify the provisions of this Convention and shall not be at variance with its provisions.

¹ Note by the secretariat: in legal text, letter (i) is not used in order to avoid confusion with roman figure (i). Therefore, the numbering has been adjusted.

3. The provisions of this Convention shall not prevent the application of greater facilities which the Contracting Parties grant or may wish to grant either by unilateral provisions or by virtue of bilateral or multilateral agreements provided that such facilities do not impede the application of the Convention's provisions.

Article 4

1. The Parties shall cooperate in order to ensure the greatest possible uniformity of requirements for documentation ~~and/or~~ procedures in all areas related to border crossings in international carriage by rail.

2. The Parties shall make every effort to use international standards, new technologies and best practices to improve the performance of railway checkpoints and to facilitate the procedures in all areas connected with border crossings in international rail traffic.

3. The Parties express their willingness to exchange information on practical achievements in improving the efficiency of railway checkpoints and in reducing the time required to carry out State ~~border~~ controls at borders.

Article 5

1. The following types of State control may be performed during the crossing of the Parties' borders:

- (a) border controls;
- (b) customs controls;
- (c) other types of State control established by the legislation of the Parties.

2. State control may be carried out at the following locations:

- (a) at a railway checkpoint (or checkpoints) of a Party;
- (b) on the train during its run between the Parties' railway checkpoints;
- (c) partially at the railway checkpoint and partially during the train's run;-
- (d) on the train en route between the railway stations of a Party.

Article 6

The State control authorities of the Parties shall carry out agreed upon actions for the control of passengers' documents and their hand luggage, luggage and load-luggage.

The location(s) for carrying out the State control-checkpoints, the manner, type, procedures and timing standards for the handling of State controls and the passenger data to be transferred to State control authorities shall be established by the legislation of the Parties and separate bilateral or multilateral agreements.

The Parties, taking into account the possibilities for effective State control, may agree that international passenger trains may travel through railway checkpoints without stopping.

The Parties may agree, through separate agreements, that a passenger train may run without stopping and without border, customs and other types of State control established by the national legislation of the Parties if the passenger train is transiting from the territory of one Party through the territory of another.

Responsibility for monitoring compliance with a prohibition of embarking/disembarking of passengers or the loading/unloading of baggage shall rest with the carrier.

Article 7

1. When carrying out State controls, the Parties shall take measures to prevent disruptions in the train schedule.
2. The Parties' infrastructure managers shall promptly exchange information on the train schedule and changes thereto, the composition of international passenger trains and the cancellation and/or designation of new trains, for subsequent notification to the State control authorities, according to the Parties' legislation and separate bilateral or multilateral agreements.
3. The Parties shall ensure compliance with the timeframes established for carrying out State control in their legislation and in separate bilateral or multilateral agreements and shall seek to reduce such timeframe standards by simplifying and improving the methods, technologies and technical means used to carry out State control.

Article 8

The Parties shall, when dealing with each other, seek to reduce the use of paper documents and to simplify documentation procedures, using electronic data interchange systems to exchange information, within the scope foreseen by the legislation of the Parties and bilateral or multilateral agreements.

Chapter 2**Border crossing by officials of ~~members of train crews,~~ State control authorities ~~officials~~ and staff engaged in international carriage by rail****Article 9**

~~Authorized~~ Officials of State control bodies shall be exempted from ~~passport and~~ visa formalities when performing State control activities in international carriage by rail. Their presentation of official documents authorizing them to carry out State control shall be considered sufficient to authenticate their identity, position and authority.

Article 10

1. The Parties shall seek to facilitate visa procedures and procedures for the crossing of the Parties' borders for train crews, staff and employees of border (or transfer) stations of the Parties engaged in international carriage by rail, in accordance with positive experience in this field with regard to all applicants.

The border crossing procedure for the persons listed in paragraph 1, including specifications of official documents confirming their status, shall be determined on the basis of bilateral agreements.

2. When a control is carried out, the officials of the border or customs authorities or of other authorities carrying out controls at border (or transfer) stations shall, in the performance of their official duties, cross the State border presenting the documents stipulated by the ~~Contracting~~ Parties for their citizens.

Chapter 3 Providing for State control

Article 11

To ensure the orderly and prompt performance of State control, the Parties shall endeavour to observe the following minimum requirements for railway checkpoints used for international passenger rail transport:

(a) ~~An appropriate presence for daily, round the clock State control at of the~~ the buildings (premises), facilities, equipment and technical means ~~used for crossing~~ allowing to carry out at railway checkpoints appropriate, daily, round the clock State control ~~must be ensured~~;

(b) The technical equipment at the railway checkpoints and adjacent areas ~~sectors~~ must facilitate State control without disrupting the train schedule;

(c) ~~An appropriate presence of equipment, devices, information systems~~ and communications means ~~systems~~ to allow for the exchange of advance information, including on passenger trains approaching railway checkpoints, ~~must be ensured~~;

(d) At railway checkpoints, the presence of the required numbers of skilled personnel of the carriers and the border, customs and other State authorities must be ensured, taking into account the volume of traffic ~~at r~~. Railway checkpoints where special controls are carried out, ~~and they~~ must be provided with the necessary technical means;

(e) The through-put and traffic capacities and those of adjacent areas ~~sectors~~ must be sufficient for the volume of traffic;

(f) The railway checkpoints must be equipped with technical means and information technology and communications systems enabling them to receive and apply ~~utilize~~ technical inspection and verification ~~of assessments and~~ rolling stock verification data kept ~~carried out~~ by official authorities and railways within their spheres of competence prior to the arrival of the rolling stock at such stations, if the Parties do not implement alternative measures to perform such functions.

Article 12

In order to confirm the authority of the State control officials, they shall wear uniforms and/or insignia, as established by the legislation of the Parties, which shall provide one another with information about them in a timely manner.

Chapter 4 Carrying out State control

Article 13

1. Information on passengers, luggage, and load-luggage crossing the border shall be transmitted by the carriers to the State control authorities, including electronically, well in advance (as technologically feasible). In the transmission of such information, restrictions contained in national legislation or in international agreements that are binding on one of the Parties shall be taken into consideration.

2. If the transmitted information contains ~~State, commercial, banking and/or other~~ secrets (State, commercial, banking or other) protected by the legislation of a Party, the persons engaged in the international transport shall undertake not to disclose such

information to third parties without the written consent of the person who owns such information or who has the right to use and dispose of it.

3. The ~~State control public~~ authorities of the Parties shall exchange information in order to improve the effectiveness of ~~thesuch~~ State control and to select in advance the forms it will take ~~in advance~~.

Article 14

1. ~~According to separate bilateral or multilateral agreements between the Parties, The Parties shall agree on the place(s) where such State control may shall be carried out jointly by their State control authorities, by concluding separate bilateral or multilateral agreements.~~

2. ~~When the Parties so agree, State control may be carried out jointly by their State control authorities.~~

3. — The State control may be carried out either in the territory of one Party or on the train during its run between the railway checkpoints of the Parties, in accordance with the provisions of this Convention.

3. The Parties shall agree on the place(s) where the jointly held State control shall be carried out and its procedures by concluding separate bilateral or multilateral agreements.

Article 15

1. Without regard to the places where the State control may be carried out, the list of which appears in paragraph 5 (2)², if such control does not require the use of forms and methods of special control and the Parties do not determine particularities of the State control by a bilateral agreement, it shall be carried out directly in the ~~cars~~wagons of the train.

2. ~~The carrier shall take measures in order that p~~Passengers ~~stay at~~shall not leave their places as assigned by their travel documents (or tickets) until the end of the State control procedures.

3. Where necessary, forms and methods of special control, as established by the legislation of the Parties, may be used in specially designated and equipped premises at railway checkpoints ~~and/or~~ in train ~~cars~~wagons.

4. In order to ensure ~~safety of passenger~~—safety, the carrier shall take all possible measures to prevent unauthorized tampering with the structure of the ~~car~~wagon. In the event that such tampering is discovered, the carrier's ~~staff~~service personnel shall inform officials of the State control authorities~~officials of the Party over the territory of which the train runs~~.

Article 16

1. State control on the train during its run between the railway checkpoints of the Parties shall be conducted in accordance with separate bilateral or multilateral agreements between the Parties.

2. ~~Separate bilateral agreements between the Parties may provide for the possibility of the control authorities of one Party to be located in the territory of the other Party.~~

3. — In the absence of a separate agreement governing ~~on~~ the sequence with which State control is to be performed in the territory of one Party, the following procedure shall be applicable:

² Comment by the secretariat: This reference should read “Article 5, paragraph 2”.

- ~~(a) — Border control by the State control authorities of the country of exit;~~
- (a) Customs and other checks *implemented* by the State control authorities of the country of exit;
- ~~(b) — *Border control by the State control authorities of the Party of exit;*~~
- (c) Border control by the State control authorities of the country of entrance;
- (d) Customs and other checks *implemented* by the State control authorities of the country of entrance.

3. *Bilateral agreements may determine a different sequence of State control, as well as provide for that officials of State control authorities of one Party may stay in the territory of another Party.*

4. ~~If there is a separate agreement for the consecutive performance of State control in the territory of one Party the following order shall be applied.~~

- ~~(a) — Border control carried out consecutively, by the State control authorities of the country of exit, and subsequently, of the country of entrance;~~
- ~~(b) — Customs and other checks carried out consecutively, by the State control authorities of the country of exit, and subsequently, of the country of entrance.~~

5. — The State control authorities of the country of entrance shall carry out State control only in those parts of the train where State control has already been performed by the State control authorities of the country of exit.

Article 17

1. The Parties shall ensure compliance with the standard timeframes set by bilateral agreements for the performance of technical operations for the reception and transfer of trains at railway checkpoints, including for all types of State control, and shall seek to reduce such times by improving operations, introducing new technologies and constantly updating them. The Parties shall take measures to reduce the standard times in coming years.

2. The Parties shall carry out registration of trains or wagons delayed at railway checkpoints and transmit this information to the Parties involved, which shall subsequently analyze the situation and propose measures to reduce layovers.

Article 18

1. ~~The competent bodies authorized in accordance with the legislation of t~~The Parties shall determine, on the basis of separate agreements, the railway checkpoints either near the border or in the interior of one of the Parties where the State control is carried out in accordance with Article 5, *paragraph 2* (a) of this Convention.

2. In all cases where such railway checkpoints are determined, separate agreements shall specify the area in which the State control officials of the Parties shall have the right to inspect passengers, their hand luggage, ~~and~~ luggage, and load-luggage crossing the Parties' border in any direction.

3. The area where *officials of the State control authorities* ~~officials~~ of the Parties have the right to inspect passengers shall typically include:

- (a) The buildings, facilities and platforms of the railway checkpoint;
- (b) Passenger trains.

Article 19

The Parties shall endeavour to arrange for State control to be carried out in accordance with Article 5 *paragraph 2* (b) of this Convention during the run of passenger trains, especially in the following cases:

- (a) When the duration of the non-stop run of such trains before and after the railway checkpoint of each of the bordering Parties is sufficient to carry out the State control procedures;
- (b) When the international traffic is carried out with passenger trains having variable gauge systems;
- (c) When high-speed trains are used.

Article 20

The Parties shall endeavour to arrange for State control to be carried out partially at a railway checkpoint and partially during the run of a passenger train in accordance with Article 5 *paragraph 2* (c) of this Convention where the duration of the non-stop run of the train before or after the railway checkpoint is sufficient to carry out the State control in the territory of only one of the Parties.

Chapter 5

Final provisions

Article 21**Signature, ratification, acceptance, approval and accession**

1. This Convention, which shall be deposited with the Secretary-General of the United Nations, shall be open to the participation of all States ~~and of regional economic integration organizations of sovereign States competent for the negotiation, conclusion and application of international agreements relating to the matters covered herein.~~

~~2. For the matters within their competence, the regional economic integration organizations referred to in paragraph 1 may on their own behalf exercise the rights and fulfil the obligations set out by this Convention for member States which are Contracting Parties to this Convention. In such cases, the member States of the organizations in question shall not be entitled to individually exercise such rights, including the right to vote.~~

2-3. States ~~and the regional economic integration organizations referred to above~~ may become Contracting Parties to this Convention:

- (a) By depositing an instrument of ratification, acceptance or approval after signature; or
- (b) By depositing an instrument of accession.

3-4. This Convention shall be open for signature at the United Nations Office at Geneva by all the States ~~and the regional economic integration organizations referred to in paragraph 1 from ... until ..., inclusive.~~

4-5. From ... it shall also be open for their accession.

5-6. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 22

Entry into force

1. This Convention shall enter into force three months after the date on which five States have deposited their instruments of ratification, acceptance, approval or accession.
2. After the five States have deposited their instruments of ratification, acceptance, approval or accession, this Convention shall enter into force for all subsequent Contracting Parties three months after the date of the deposit of their instruments of ratification, acceptance, approval or accession.
3. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.
4. Any such instrument deposited after an amendment has been accepted in accordance with the procedure in article 27, but before it has entered into force, shall be deemed to apply to the Convention as amended on the date when the amendment enters into force.

Article 23

Denunciation

1. Any Contracting Party may denounce this Convention by so notifying the Secretary-General of the United Nations.
2. Denunciation shall take effect six months after the date of receipt by the Secretary-General of the notification of denunciation.

Article 24

Termination

If, after the entry into force of this Convention, the number of States which are Contracting Parties is reduced to less than five for a period of 12 consecutive months, the Convention shall cease to have effect from the end of the 12-month period in question.

Article 25

Settlement of disputes

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall, so far as possible, be settled by negotiation between them or by other means of settlement.
2. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention which cannot be settled by the means indicated in paragraph 1 of this article shall, at the request of one of the Parties, be referred to an arbitration tribunal composed as follows: each party to the dispute shall appoint an arbitrator, and these arbitrators shall appoint another arbitrator, who shall be the chair. If, three months after receipt of a request, one of the Parties has failed to appoint an arbitrator or if the arbitrators have failed to elect the chair, any of the Parties may request the Secretary-General of the United Nations to appoint an arbitrator or the chair of the arbitration tribunal.
3. The decision of the arbitration tribunal established under the provisions of paragraph 2 shall be final and binding on the parties to the dispute.
4. The arbitration tribunal shall determine its own rules of procedure.
5. The arbitration tribunal shall take its decisions by majority vote and on the basis of the treaties existing between the parties to the dispute and general international law.

6. Any controversy which may arise between the parties to the dispute as regards the interpretation and execution of the award may be submitted by any of the parties for judgment to the arbitration tribunal which made the award.

7. Each party to the dispute shall bear the costs of its own appointed arbitrator and of its representatives in the arbitral proceedings; the costs of the chair and the remaining costs shall be borne in equal parts by the parties to the dispute.

Article 26

Reservations

1. Any Contracting Party may, at the time of signing, ratifying, accepting or approving this Convention or acceding to it, declare that it does not consider itself bound by Article 25 *paragraphs* 2 to 7 of this Convention. Other Contracting Parties shall not be bound by these paragraphs in respect of any Contracting Party which has entered such a reservation.

2. Any Contracting Party having entered a reservation as provided for in paragraph 1 of this Article may at any time withdraw such reservation by notifying the Secretary-General of the United Nations.

3. Apart from the reservations set out in paragraph 1 of this Article, no reservation to this Convention shall be permitted.

Article 27

Procedure for amending this Convention

1. This Convention, including its annexes, may be amended upon the proposal of a Contracting Party by the procedure specified in this article.

~~2. Any proposed amendment communicated in accordance with the preceding paragraph shall come into force with respect to all Contracting three months after the expiry of a period of 12 months following the date of communication of the proposed amendment, during which period no objection to the proposed amendment has been communicated to the Secretary General of the United Nations by a State or by a regional economic integration organization which is a Contracting Party, and which then acts within the conditions specified in article 21 (2) of this Convention. *Thirty days after two third of the Parties have deposited their instrument of ratification, acceptance or approval of any proposed amendment communicated in accordance with the preceding paragraph, it shall come into force with respect to any of these Contracting Parties which has deposited an instrument of ratification, acceptance or approval. Afterwards, the amendment will come into force with respect to any other Party on the day when such Party deposits its instrument of ratification, acceptance or approval of the amendment.*~~

3. If an objection to the proposed amendment has been communicated in accordance with paragraph 3 of this Article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.

Article 28

Requests, communications and objections

The Secretary-General of the United Nations shall inform all Contracting Parties and all States of any request, communication or objection under Article 27, and of the date on which any amendment enters into force.

Article 29
Review Conference

After this Convention has been in force for five years, any Contracting Party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing the Convention, indicating the proposals which should be dealt with by the conference. In such a case:

- (i) The Secretary-General of the United Nations shall notify all the Contracting Parties of the request and invite them to submit, within a period of three months, their comments on the original proposals and such other proposals as they may wish the conference to consider;
- (ii) The Secretary-General of the United Nations shall also communicate to all the Contracting Parties the text of any other proposals made and shall convene a review conference if, within a period of six months from the date of that communication, not less than one third of the Contracting Parties notify him of their concurrence with the convening of such a conference;
- (iii) However, if the Secretary-General of the United Nations considers that a review proposal may be regarded as a proposed amendment under Article 27 (1), he may, by agreement with the Contracting Party which has made the proposal, implement the amendment procedure provided for by Article 27, instead of the review procedure.

Article 30
Notifications

In addition to the notifications and communications provided for in Articles 28 and 29, the Secretary-General of the United Nations shall notify all States of the following:

- (a) Signatures, ratifications, acceptances, approvals and accessions under Article 21;
- (b) The dates of entry into force of this Convention in accordance with Article 22;
- (c) Denunciations under Article 23;
- (d) The termination of this Convention under Article 24;
- (e) Reservations under Article 26.

Article 31
Certified true copies

After ... the Secretary-General of the United Nations shall transmit two certified true copies of this Convention to each of the Contracting Parties and to all States which are not Contracting Parties.

Done at ___ in ___ copies, on ___, in the ___ language, the English, Russian ~~and~~ ___ texts being equally authentic.

In Witness Whereof, the undersigned plenipotentiaries, being duly authorized thereto, have signed this Convention.
