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INLAND TRANSPORT COMMITTEE

Working Party on Rail Transport
(Fifty-ninth session, Paris (France),
24-25 November 2005,
agenda item 5 (a))

**INTERNATIONAL CONVENTION ON THE HARMONIZATION
OF FRONTIER CONTROLS OF GOODS, 1982
("HARMONIZATION CONVENTION")**

Preparation of a new annex on railway border crossing

Transmitted by the Organization for Cooperation between Railways (OSZhD)*

The secretariat reproduces below the Memorandum of the Second Preparatory Meeting of the small working group on the International Conference on Facilitation of Railway Border Crossing, held in Warsaw from 1 to 3 June 2005.

* The secretariat reproduces this document in its original form without official editing by UNECE.

The United Nations Economic Commission for Europe (UNECE) and the OSZhD Committee, in accordance with the Plan of Action for the preparation of the International Conference on Facilitation of Railway Border Crossing adopted at the Third Preparatory Meeting held in Brest (Republic of Belarus) in March 2005, have held a second meeting of the small working group of representatives of border police, customs, transport ministries and railway administrations of the Republic of Belarus, the Republic of Latvia, the Republic of Lithuania, the Republic of Poland, the Russian Federation and Ukraine, together with representatives of the International Railway Union (UIC), the Intergovernmental Organization for International Carriage by Rail (OTIF) and the OSZhD Committee.

The participants adopted the following agenda:

1. Consideration of comments and proposals on the draft new Annex 9 to the International Convention on the Harmonization of Frontier Controls of Goods (1982) regarding railway border crossing (see the Memorandum of the Third Preparatory Meeting held in Brest, Belarus, from 16 to 18 March 2005);
2. Discussion of the International Convention to Facilitate the Crossing of Frontiers for Goods Carried by Rail (1952) with a view to using it as a basis for a new convention on the carriage of passengers and baggage (see the Memorandum of the Third Preparatory Meeting held in Brest, Belarus, from 16 to 18 March 2005);
3. The venue and date of the International Conference on Facilitation of Railway Border Crossing, the list of participants and the objectives of the Conference;
4. Other matters.

Agenda item 1

The participants considered and agreed comments and proposals on the draft new Annex 9, "Facilitation of Border Crossing Procedures for International Rail Freight", to the International Convention on the Harmonization of Frontier Controls of Goods (1982) (Annex I).

The meeting invites border, customs, transport and railway administrations of member States of OSZhD and other interested countries to examine the proposed draft of Annex 9 and send their comments and suggestions to the UNECE Inland Transport Committee, the OSZhD Committee and the members of the working group by 5 August 2005. The members of the working group should consider any suggestions received and forward their proposals to the UNECE Inland Transport Committee and the OSZhD Committee by 20 August 2005.

Agenda item 2

The participants considered and approved the draft Convention to Facilitate Border Crossing in International Railway Passenger Transport (Annex 2).

The meeting invites border, customs, transport and railway administrations of member States of OSZhD and other interested countries to examine the proposed draft Convention to Facilitate Border Crossing in International Railway Passenger Transport and send their comments and suggestions to the UNECE Inland Transport Committee, the OSZhD Committee and the members of the working group by 5 August 2005.

The members of the working group should consider any suggestions received and forward their proposals to the UNECE Inland Transport Committee and the OSZhD Committee by 20 August 2005.

Agenda item 3

The UNECE Inland Transport Committee and OSZhD should, before 5 August 2005, invite transport ministries to consider the possibility of hosting the International Conference in their respective countries.

Agenda item 4

The participants propose that the fourth scheduled preparatory meeting of the working group on the International Conference on Facilitation of Railway Border Crossing should be held in Lithuania from 18 to 20 October 2005, in keeping with the plan of work.

The preliminary agenda is as follows:

1. Consideration and approval of the draft final document of the International Conference.
2. Consideration and approval of draft Annex 9 to the Convention on the Harmonization of Frontier Controls of Goods, 1982.
3. Review and approval of the draft Convention to Facilitate Border Crossing in International Railway Passenger Transport.
4. Coordination of the Plan of Action (see the Memorandum of the Second Preparatory Meeting of the working group held in Lvov (Ukraine) in November 2004, agenda item 3).
5. Approval of the draft preliminary agenda for the International Conference.

This Memorandum was unanimously adopted by the second meeting of the small working group.

Annex 1

**INTERNATIONAL CONVENTION ON THE HARMONIZATION OF
FRONTIER CONTROLS OF GOODS, 1982**

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Annex 9

**FACILITATION OF BORDER CROSSING PROCEDURES
FOR INTERNATIONAL RAIL FREIGHT**

Preamble

The Contracting Parties,

Desiring to improve the international movement of goods,

Bearing in mind the need to facilitate the passage of goods at frontiers,

Noting that control measures are applied at frontiers by State control services,

Acknowledging that the conditions under which such controls are carried out may be extensively simplified without impairing their purpose, their proper implementation and their effectiveness,

Convinced that the harmonization of frontier controls constitutes an important means for attaining these objectives,

Have agreed as follows:

Article 1

Principles

1. This Annex, supplementing the provisions of the Convention, is intended to define the steps that need to be taken to facilitate and expedite border crossing procedures for international rail transport.
2. The Contracting Parties pledge to cooperate in order to standardize as fully as possible formalities and requirements in respect of documents and procedures in all areas connected with the movement of goods by rail.
3. The Contracting Parties shall endeavour to base all forms of joint controls at border (transfer) stations on bilateral agreements.

Article 2

Crossing of borders

1. The Contracting Parties shall endeavour to facilitate all border crossing procedures, including the issuance of visas to locomotive crews, refrigerated unit crews, persons accompanying freight shipments and staff at adjoining border (transfer) railway stations [hereafter: border (transfer) stations].
2. The border crossing procedure for the persons listed in article 2, paragraph 1, including official documents confirming their status, shall be determined on the basis of bilateral agreements.

Article 3

Requirements for border (transfer) stations

To rationalize and expedite the required formalities at border (transfer) stations, the Contracting Parties shall observe the following minimum requirements for border (transfer) stations open to international rail freight traffic:

- (i) Border (transfer) stations shall have buildings (premises), plant, facilities and technical equipment enabling them to carry out daily and round-the-clock controls throughout the year, if this is justified and is appropriate to the volume of freight traffic;
- (ii) Border (transfer) stations where phytosanitary, veterinary and other controls are carried out shall be provided with the necessary facilities, premises and technical equipment to inspect goods;
- (iii) The carrying and traffic capacity of border (transfer) stations and adjacent tracks must be adequate for the volume of traffic;
- (iv) Inspection areas and warehousing must be available for the temporary storage of goods subject to customs or other forms of control;
- (v) Information technology and communications systems must be available to enable information to be exchanged in advance, including quantities of goods approaching border (transfer) stations that correspond to the information contained in the railway consignment note and customs declaration;
- (vi) Sufficient railway staff must be on hand at border (transfer) stations to cope with the freight volumes involved.

Article 4

Expedited inspection of rolling stock, containers and goods

1. The Contracting Parties shall coordinate action to expedite inspection of rolling stock, containers, piggyback semi-trailers and goods and to process shipping and accompanying documentation.

Article 5

Inspection

The Contracting Parties:

- (i) Shall endeavour to ensure reciprocal recognition of all forms of inspection of rolling stock, containers, piggyback semi-trailers and goods, provided the objectives of these inspections coincide;
- (ii) Shall carry out customs controls on the basis of risk assessment and spot checks, unless national regulations specify stricter criteria;
- (iii) Shall endeavour to institute simplified controls at border (transfer) stations, moving certain types of controls to the station of destination in accordance with national legislation.

Article 6

Time limits

1. The Contracting Parties shall ensure compliance with the time limits specified in bilateral agreements for technical operations involving the reception and transfer of trains at border (transfer) stations, including all types of controls, and shall endeavour to reduce these deadlines through the use of better techniques and new technology.

Article 7

Documentation

1. The Contracting Parties shall endeavour to have shipping and accompanying documents properly formulated in accordance with the legislation of the importing and transit countries.
2. The Contracting Parties shall endeavour to use electronic railway consignment notes and electronic (digital) signatures.
3. In their mutual relations, the Contracting Parties shall endeavour to use freight accompanying documents drawn up in accordance with national legislation.

Annex 2

CONVENTION TO FACILITATE BORDER CROSSING IN INTERNATIONAL RAILWAY PASSENGER TRANSPORT

Preamble

The Contracting Parties,

Desiring to facilitate the crossing of frontiers for passengers and baggage carried by rail,

Acknowledging that the conditions under which controls are carried out may be extensively simplified without impairing their purpose, their proper implementation and their effectiveness,

Convinced that the harmonization of frontier controls constitutes an important means for attaining these objectives,

Taking into account innovative methods of carrying out controls, including controls while trains are in motion, and joint controls by adjoining States,

Have agreed as follows:

General provisions

The following types of controls (hereinafter control) are carried out at border crossings in international passenger transport:

- (a) Border control;
- (b) Customs control;
- (c) Other controls.

Controls may be carried out unilaterally or jointly:

- At a border station;
- While a train is in motion;
- During gauge-changing operations.

Section I

Controls at stations

Article 1

1. To establish the necessary conditions for efficient controls of international passenger transport, the competent authorities of adjoining countries shall designate border stations for the control of passengers, baggage and cargo-baggage (hereinafter baggage), either unilaterally or jointly.

Article 2

1. Each station shall have a designated zone in which the competent authorities can carry out controls of passengers and goods crossing the border.

2. This zone shall encompass any:

- (a) Buildings for carrying out controls and housing the staff of the controlling bodies;
- (b) Warehouses for storing and controlling baggage;
- (c) Passenger trains;
- (d) Passenger platforms and sections of track;
- (e) Gauge-changing areas;

that appear within it.

Article 3

The manner of application, within the zone established in accordance with article 2, of the laws and regulations of the adjoining country, and the powers, rights and duties exercised within the zone by the competent authorities of that country, shall be the subject of bilateral agreements.

Article 4

1. The country in whose territory the zone is located pledges to allow the competent authorities of the neighbouring country to use the equipment and facilities therein, and shall bear the costs associated with such use.

2. Any equipment required for the functioning of the services of the adjoining country shall be imported on a temporary basis and re-exported free of all customs duties and charges, provided the proper declaration is made. Regulations forbidding or restricting import or export shall not apply to such equipment.

Article 5

1. There shall be displayed outside the official premises special plates bearing the name of the services and distinguishing national marks.
2. Officials must wear the uniform prescribed by the internal regulations of their country.
3. Officials who enter the zone of the neighbouring State in order to carry out their official duties under this Convention shall be exempt from passport formalities. Production of their official papers shall be sufficient to enable them to cross the border.
4. All the rules regarding the personal safety of the persons mentioned in paragraphs 2 and 3 of this article shall be observed, and where necessary such persons shall be afforded assistance in carrying out their official duties.
5. The bilateral agreement shall indicate:
 - (a) The category and number of officials from the relevant entities and units authorized to carry out controls;
 - (b) The grounds on which officials may be relieved of their official duties and recalled;
 - (c) The list of officials entitled to carry and use standard-issue weapons.

Article 6

1. Controls of passengers and baggage shall normally be carried out directly in the coaches of international trains.

Passengers crossing a border in a passenger train must not leave their compartment before the control is completed.

Where necessary, a control may be carried out in special facilities set aside for this purpose.

Railway officials shall be required by official instructions, to assist representatives of the competent authorities in order to ensure that the controls are carried out as efficiently as possible.

2. Controls of passengers and baggage shall normally be carried out in the following order:
 - (a) Customs and other controls of the country of exit;
 - (b) Border control of the country of exit;
 - (c) Border control of the country of entry;
 - (d) Customs and other controls of the country of entry.

3. The competent authorities of the country of entry shall be entitled to carry out a control only after the competent authorities of the country of exit have completed their control.
4. International trains should not normally wait more than 40 minutes for a control to be carried out, except at border crossings involving gauge changes.
5. Railway administrations shall notify the competent authorities of both countries in due time of any changes in the timing and composition of trains and the volume of passengers carried, etc.
6. Railway administrations shall endeavour to provide border control authorities with passenger data in order to carry out computerized controls, where necessary.
7. The Contracting Parties shall endeavour to refrain from carrying out exit controls, instead conducting a control based on trust.

Section II

Controls while a train is in motion

Article 7

1. In order to reduce passenger train waiting time at stations, the Parties may agree to border and customs controls being carried out:
 - (a) While a train is in motion, on condition that no stops are made during the control;
 - (b) Jointly while the train is in motion, on condition that no stops are made during the control.
2. The parties may also agree that an international passenger train may pass through a border station without stopping.

Section III

Control of baggage

Article 8

1. When at a border station it is not possible to carry out the required control during the allotted waiting time, the baggage must be unloaded to avoid delaying the departure of the train.
2. Control of baggage must normally be carried out prior to loading at the station of dispatch.

In order to avoid re-examining the baggage of passengers in transit through the territory of Contracting Parties to the Convention and baggage carried in the baggage vans of international passenger trains, the competent authorities of the parties may conclude agreements laying down the rules for and the conditions under which such carriage shall be effected (for example, the sealing of baggage compartments of coaches, baggage vans and designated baggage spaces). Such agreements will have to include an identification chart of the various stamps, marks, seals and consignment notes in use.

Section IV

Simplification of controls at border crossings

Article 9

1. Passengers on international passenger trains shall enjoy the same customs privileges as passengers using other modes of transport.
2. Control officials shall take all necessary steps to prevent a train from being delayed in the event of difficulties or disputes that affect certain passengers only.

Section V

Conclusion

Article 10

1. After signature, this Convention shall be open for accession by other countries participating in the work of the Economic Commission for Europe (UNECE) by transmitting the relevant written declaration to the Secretariat of the United Nations and drawing up the instrument of accession.
2. The Secretary-General of the United Nations shall notify all the countries participating in the work of UNECE of the new Contracting Party.

Article 11

This Convention may be denounced by providing six months' written notice to the Secretary-General of the United Nations, who shall notify the other Contracting Parties thereof. The Convention shall cease to be in force for the Contracting Party that has denounced it upon the expiry of this notice period, reckoned from the date on which the United Nations Secretariat receives notification.

Article 12

1. This Convention shall enter into force when ratified by at least three of the Contracting Parties thereto, as registered by the Secretariat of the United Nations.
2. This Convention shall cease to apply if the number of Contracting Parties thereto is less than three.

Article 13

Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention that cannot be settled by negotiation or by other means acceptable to the Parties in dispute shall be examined by an arbitral commission. The commission shall comprise one representative of each Party. The chairman shall be appointed by the Secretary-General of the United Nations. In the event of the votes on each side being equal, the chairman shall have the casting vote.

Article 14

1. The original of this Convention and instruments of accession or ratification (as appropriate) shall be deposited in the archives of the United Nations, which shall act as depositary.
2. Each party shall receive a certified true copy of the Convention.
