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Legal interoperability CIM/SMGS: The “rail”way ahead

Prepared by the International Rail Transport Committee (CIT)

Phase 1: Common CIM/SMGS consignment note

The CIM/SMGS Consignment note and the accompanying CIM/SMGS Consignment Note Manual and Annex 22 of the SMGS for international freight traffic by rail became available for widespread use by customers and carriers on 1 September 2006.

The CIM/SMGS Consignment note is recognised as a customs transit document by DG TAXUD for the European Union and EFTA member states and by the customs authorities of Russia, Belarus and the Ukraine. It can also be used by customers for documentary credit operations.

Electronic CIM/SMGS consignment note

After evaluation of the results of Stage 1 (advance electronic notification of consignment note data), work on the creation of the actual electronic CIM/SMGS consignment note has been going on since April 2007. The CIM/SMGS Group of Experts prepared the *functional* specification, the Legal Group CIM/SMGS the *legal* specification of the *electronic* CIM/SMGS consignment note.

After the final revision of the functional and legal specifications at the beginning of March 2009 they were issued as recommendations by the CIT and OSJD in English, French, German and Russian. RAILDATA and the OSJD are now preparing the technical specifications (data catalogue and message catalogue) with the assistance of the CIT General Secretariat. They will be issued as recommendations at the beginning of 2010. The implementation of Stage 1 itself (electronic consignment data in advance) is planned for 2010.

CIM/SMGS wagon and container lists

The CIM/SMGS Group of Experts developed a CIM/SMGS Wagon list and a CIM/SMGS Container list to allow further simplification of international freight traffic by rail. The CIM/SMGS Wagon list will be used for block trains and groups of wagons carrying conventional traffic and containers which are consigned using a CIM/SMGS consignment note. Because there are not (yet) any relevant instructions for Container lists in the SMGS area, the use of a CIM/SMGS container list requires an agreement between the customer and the carrier/railway. A precondition for this is that, unless otherwise agreed, the consignment consists entirely of goods of the same type.

Practical implementation of the common CIM/SMGS Consignment note in the various railway corridors

More than 50 traffic axes are successfully served by the Common CIM/SMGS consignment note in fifth Trans-European Railway Corridors.

For example over five hundred block trains have been run from Mladá Boleslav in the Czech Republic and Vel'ká Ida in the Slovak Republic to Kaluga 1 (south of Moscow) and back since November 2008. The transit time for the movements from, for example, Mladá Boleslav has been significantly reduced and is now only four days (compared with twelve days originally).

Since the beginning of 2009, a further increase in CIM/SMGS traffic of over 40 000 twenty-foot containers has been noted in the West-East direction. In the East-West direction, approximately 20 000 twenty-foot containers were consigned using the CIM/SMGS consignment note. In the first half of 2009, some 13 000 CIM/SMGS consignment notes were used for West-East traffic, in the opposite direction the figure was some 11 000.

Wagonload traffic is running regularly without significant problems from Grosuplje (Slovenia) to L'viv in the Ukraine. This movement has been organised by SŽ together with UZ and MÁV Cargo. UZ is currently negotiating movements with customers along the northern axis of Corridor V between the Ukraine and Austria.

Major flows for Renault between Romania (Ciumesti) and the Russian Federation (Moscow Paveletzkaya) in transit via the Ukraine started on 24 February 2009. Further flows organised by the Geodis Group for Renault from Kiev Liski to Ciumesti are planned.

Implementation of the common CIM/SMGS consignment note has benefited greatly from RZD's extension of its geographical scope to destinations right up to the Urals. Already nine of the seventeen subsidiaries of RZD are ready for implementation. In addition, SNCF Fret has declared that it will use the CIM/SMGS consignment note for movements to and from Russia.

Transcontinental axes between Europe and Asia/Kazakhstan/China

The use of the CIM/SMGS consignment note is becoming increasingly more important for transcontinental movements between Europe and the Central Asian Republics. Since now days the Kyrgyz Republic is the only country from Central Asia which is fully ready to apply the CIM/SMGS Consignment note. In addition, trial movements to and from Kazakhstan as well as to and from Uzbekistan are in planning. To complete the network, ferry services in the Caspian and rail routes in the Caucasus are being increasingly taken into account.

To further the use of the common CIM/SMGS consignment note for transcontinental traffic between Europe and Asia/China, the use of Chinese in the CIM/SMGS manual is planned with effect from 1 January 2010. Subsequently, suitable traffic axes over which trial movements can be organised and run will be defined.

Trial movements to Mongolia are planned. RZD, in conjunction with the Ulan Bator Railway (UBZhd), will give special permission for the use of the CIM/SMGS consignment note on the TransSib and on other sections in Mongolia for this traffic.

Phase 2: Legal instruments for CIM/SMGS traffic

Guide to the Liability Clauses in the CIM and SMGS

This document was published in mid-March 2007 jointly with the OSJD and is available to all interested parties. It acts as a legal source for further work in the project and is also a valuable tool for the on-going revision of the SMGS.

Standard CIM/SMGS Formal Report

The CIM/SMGS Legal Group drew up in 2008 the design for the Standard CIM/SMGS Formal Report and the instructions for its use basing them on the existing CIM and SMGS formal reports. The advantage of this document is mutual recognition and use both in the CIM and in the SMGS areas.

CIM/SMGS claims handling procedure rules

Based on the practical difficulties in handling claims for loss and damage during transit, the absence of a relevant legal basis in either the CIM Uniform Rules or the SMGS and taking account of the fact that the CIM and SMGS have similar provisions for the relationship between the carriers, the CIM/SMGS Legal Group are developed in 2009 an CIM/SMGS claims handling procedure rules for the handling of compensation and on its allocation to the various CIM/SMGS carriers. This rules are implemented in the Agreement concerning the Relationships between Carriers in respect of International Freight Traffic by Rail (AIM, Chapter 3) and the SMGS Staff Instructions (SI for Article 29 SMGS) respectively.

The CIM/SMGS claims handling procedure rules after be submitted to OSJD Committee's Commission II for transport law for their approval came into effect since 1 January 2010.

Rules for the out-payment of compensation following claims

On behalf of the project, the Legal Group CIM/SMGS developed the rules for paying out compensation approved as a result of the claims handling procedure rules. After the CIT and the OSJD Commission II for transport law have also agreed, these provisions came into effect also since 1 January 2010 and at the same time as the whole body of rules for CIM/SMGS claims handling.

These standardised rules for CIM/SMGS claims handling will ensure that claims for compensation are handled rapidly and transparently.

Phase 3: Creation of Unified Railway Law

The third phase of the project includes the creation of standard rules for unified rail transport law on contractual base. The first thoughts are of developing a simple legal regime based on the existing CIM and SMGS rules for particular traffics (block trains of containers, for example) on defined traffic axes (along the Trans-Siberian and Corridor II between China/Kazakhstan and West European).

The CIM and SMGS would thus remain in place but for yet to be defined transcontinental traffic an alternative contractual regime in the form of Special Terms and Conditions would be created as a legal synthesis of the CIM and SMGS. This concept is based on the assumption that only a small core part of the current CIM and current SMGS would be required for such traffic.