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Item 3 of the provisional agenda
Unification of international railway law with the objective to allow rail carriage under a single legal regime

Comparison of relevant legal provisions in CIM and SMGS *

Note by the secretariat

I. Mandate

1. This document has been prepared in line with the output/activities of cluster 4: "Rail transport and Trans-European Railway (TER) Project" of the programme of work of the transport subprogramme for 2012–2013 (ECE/TRANS/2012/9 and Rev.1) as adopted by the Inland Transport Committee on 1 March 2012 and on 28 February 2013 respectively (ECE/TRANS/224 para. 93, ECE/TRANS/236, para. 72).

2. At its sixth session in December 2013, the Group of Experts undertook a first review of columns 3 and 4 of secretariat document ECE/TRANS/SC.2/GEURL/2013/9 in order to arrive at a common understanding on the concepts and explanatory legal provisions to be enshrined into a new international legal railway regime. This exchange of views was performed article by article starting with newly proposed Article A and up to article I.

3. Based on this first review of the conceptual and legal basis of a new international railway regime, the secretariat was requested to prepare a document that includes the provisions of document ECE/TRANS/SC.2/GEURL/2013/9 with further possible wording of specific legal provisions for the rest of the articles (article J up to article FF) (ECE/TRANS/SC.2/GEURL/2014/5).

* The present document is being issued without formal editing.

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COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
CIM = Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (Appendix B to the Convention concerning International Carriage by Rail) (COTIF 1999) *CMR = Convention on the Contract for the International Carriage of Goods by Road* *MC = Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention),* *RR = United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (Rotterdam Rules)*			
Scope of Application			
Article 1 **Scope** **§ 1** These Uniform Rules shall apply to every contract of carriage of goods by rail for reward, when the place of taking over of the goods and the place designated for delivery are situated in two different Member States, irrespective of the place of business and the nationality of the parties to the contract of carriage. **§ 2** These Uniform Rules shall apply also to contracts of carriage of goods by rail for reward, when the place of taking over of the goods and the place designated for delivery are situated in two different States, of which at least one is a Member State and the parties to the contract agree that the contract is subject to these Uniform Rules. **§ 3** When international carriage being the subject of a single contract includes carriage by road or inland waterway in internal traffic of a Member State as a supplement to transfrontier carriage by rail, these Uniform Rules shall apply. **§ 4** When international carriage being the subject of a single contract of carriage includes carriage by sea or transfrontier carriage by inland waterway as a supplement to carriage by rail, these	**Article 1** **Object of the Agreement** This Agreement shall establish direct international railway communications for freight transport between the railways of the following countries (name of countries). The interests of these railways shall be represented by the ministries responsible for them which have entered into the Agreement. **Article 2** **Application of the Agreement** **§ 1** The Agreement shall set out the conditions for freight transport by direct international railway communications between the stations indicated in article 3, § 2, according to the consignment notes provided for by the Agreement, and only on the network of railways covered by the Agreement. The Agreement is binding on railways, consignors and consignees, regardless of the nationality of the parties to the contract of carriage. **§ 2** The transport of cargo from (or to) countries whose railways are covered by the Agreement in transit through countries whose railways are also covered by the Agreement to (or from) countries whose railways are not covered by the Agreement shall be governed	CIM is applicable for carriage between Contracting Parties to CIM, even in case of transit through third countries. CIM is also applicable (similar to CMR) if only one State, either the place of taking over the goods or the place designated for delivery, is a Contracting Party to CIM (refer also to Art. 1, § 2 of MC). SMGS (2012) is exclusively applicable for carriage on railway lines that are members to this Agreement (also for transit). In case SMGS is not applicable in the country of origin or the country of destination and if at least two SMGS countries with their railways are involved in the carriage, the relevant transit tariff comes into force as long as no other agreement on direct international rail carriage (especially CIM) is applicable. A new unified legal railway regime could become applicable if, for a single Euro-Asian contract of carriage of goods by rail (concluded, for example, between a freight forwarder or several railway companies and a	**Article A** **Scope of Application** **§ 1** This legal railway regime shall apply to every single (through) contract of carriage of goods by rail for reward taking place in the territories of the Contacting Parties to this Convention if the parties to the contract agree that the contract is subject to this legal railway regime. **§ 2** This legal railway regime cannot not be applied for the carriage of goods by rail for which the provisions of CIM and SMGS are applicable.

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Uniform Rules shall apply if the carriage by sea or inland waterway is performed on services included in the list of services provided for in Article 24 § 1 of the Convention. **§ 5** These Uniform Rules shall not apply to carriage performed between stations situated on the territory of neighbouring States, when the infrastructure of these stations is managed by one or more infrastructure managers subject to only one of those States. **§ 6** Any State which is a party to a convention concerning international through carriage of goods by rail comparable with these Uniform Rules may, when it makes an application for accession to the Convention, declare that it will apply these Uniform Rules only to carriage performed on part of the railway infrastructure situated on its territory. This part of the railway infrastructure must be precisely defined and connected to the railway infrastructure of a Member State. When a State has made the above-mentioned declaration, these Uniform Rules shall apply only on the condition (a) that the place of taking over of the goods or the place designated for delivery, as well as the route designated in the contract of carriage, is situated on the specified infrastructure or (b) that the specified infrastructure connects the infrastructure of two Member States and that it has been designated in the contract of carriage as a route for transit carriage. **§ 7** A State which has made a reservation in accordance with § 6 may	by the procedures and conditions of the transit tariff used by the railways concerned for the international freight route in question, unless another agreement on direct international rail freight transport applies. **§ 3** The Agreement shall not apply to freight traffic: (1) If the dispatching station and the destination station are in the same country, and the traffic through another country's territory is limited to transit in trains of the railways of the country of dispatch; (2) Between the stations of two countries, with transit through the territory of a third country in trains of the railways of either the country of dispatch or the destination country; (3) Between stations situated in two neighbouring countries, if the freight is transported along the entire route in trains of the railway of one of the countries in accordance with the internal regulations in effect on that railway. Transport operations falling under subparagraphs 1, 2 or 3 above shall be performed on the basis of separate agreements concluded by the railways concerned. **§ 4** The railways of countries which are also parties to other international agreements may conduct freight operations with each other on the basis of those agreements.	shipper for the carriage of goods between Geneva and Irkutsk) neither CIM nor SMGS can be applied, but only national legislation. A new unified legal railway regime would neither replace CIM nor SMGS as long as the parties to the contract of carriage of goods accept, as is the case today, a brake in delivery and re-consignment of the goods at the CIM/SMGS external boundaries/perimeters. A new unified legal railway regime will not limit the application of Art. 1, para. 2 of CIM (or similar provisions that may be possibly be contained in future versions of SMGS) allowing parties to the contract of carriage of goods by rail to agree on the through application of CIM in case where at least either the place of departure or of delivery of the goods is in a Contracting Party to CIM. The possibilities provided by Art. 1, para. 2 of CIM, applicable since 2006, had never been used. This may be due to the fact that the extension of legal provisions beyond the scope of the relevant public law framework does not rule possible collision with mandatory legislation outside of CIM and is not familiar to public and private stakeholders. A new unified legal railway regime, bringing together familiar administrative procedures and legal provisions of CIM and SMGS, may increase acceptance and facilitate	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
withdraw it at any time by notification to the Depositary. This withdrawal shall take effect one month after the day on which the Depositary notifies it to the Member States. The declaration shall cease to have effect when the convention referred to in § 6, first sentence, ceases to be in force for that State.		implementation among all parties. The need to insert relevant provisions governing road and inland water as a supplement to the international carriage by rail, as provided in Article 1, para. 3 of CIM, should be considered.	
Article 5 **Mandatory Law** Unless provided otherwise in these Uniform Rules, any stipulation which, directly or indirectly, would derogate from these Uniform Rules shall be null and void. The nullity of such a stipulation shall not involve the nullity of the other provisions of the contract of carriage. Nevertheless, a carrier may assume a liability greater and obligations more burdensome than those provided for in these Uniform Rules. **Article 4** **Derogations** **§ 1** Member States may conclude agreements which provide for derogations from these Uniform Rules for carriage performed exclusively between two stations on either side of the frontier, when there is no other station between them. **§ 2** For carriage performed between two Member States, passing through a State which is not a Member State, the States concerned may conclude agreements which derogate from these Uniform Rules.	**Article 2** **Object of the Agreement** **§ 1, Section 2** The Agreement is binding on railways, consignors and consignees, regardless of the nationality of the parties to the contract of carriage.	CIM, SMGS and other international conventions (f.i. Art. 41 of CMR and Art. 49, 26, 47 of MC) establish law that is mandatory as long these conventions do not allow deviations/exceptions. This holds also true if the application of the new legal railway regime is agreed upon by the parties to a contract of carriage. If the parties have agreed on the applicability of the legal regime, it is mandatory and applies as a whole. Similarly to Art. 5.3 of CIM or Art. 25 to 27 of MC, a new unified legal railway regime could provide that the carrier may assume a liability greater and obligations more burdensome vis-à-vis his customers than those provided in the new regime.	**Article B** **Mandatory Law** **§ 1** Unless provided otherwise in this **legal railway regime**, any stipulation, agreed upon by the parties to the contract of carriage, which would derogate from this legal railway regime shall be null and void. Nevertheless, a carrier may assume a liability greater and obligations more burdensome than those provided for in this legal railway regime. **§ 2** Where this legal railway regime does not make provisions, the law of the State in which the plaintiff (claimant) makes his claim applies (national law).

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Article 8 of COTIF **National law** **§ 1** When interpreting and applying the Convention, its character of international law and the necessity to promote uniformity shall be taken into account. **§ 2** In the absence of provisions in the Convention, national law shall apply. **§ 3** "National law" means the law of the State in which the person entitled asserts his rights, including the rules relating to conflict of laws.			
Article 10 of COTIF **Supplementary provisions** **§ 1** Two or more Member States or two or more carriers may agree supplementary provisions for the execution of the CIV Uniform Rules and the CIM Uniform Rules; they may not derogate from these Uniform Rules.			
Article 2 **Prescriptions of public law** Carriage to which these Uniform Rules apply shall remain subject to the prescriptions of public law, in particular the prescriptions relating to the carriage of dangerous goods as well as the prescriptions of customs law and those relating to the protection of animals.	**Article 4** **Items not accepted for carriage** **§ 1** The following shall not be accepted for carriage in direct international rail freight traffic: (1) Items that are prohibited for transport in any of the countries whose railways would be involved in transport; (2) Items that are subject to a monopoly of the postal authorities (annex 1) in any of the countries whose railways would be involved in their transport; (3) Dangerous goods for which no provision for transport is made in SMGS, annex 2.	International transport conventions regulate the contractual relationship between carriers and customers. They contain provisions of private law. Public law remains untouched. CIM and SMGS address this in different ways. A new unified legal railway regime could also address these issues and, if appropriate, also refer to the increasingly important administrative and safety – related regulations of railways that should remain	**Article C** **Prescriptions of public law** Carriage to which this legal railway regime applies shall remain subject to the prescriptions of public law, in particular the prescriptions relating to the carriage of dangerous goods as well as the prescriptions of customs law and those relating to the protection of animals.

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	§ 2 If it is discovered during the performance of the contract of carriage that items not accepted for carriage have been consigned, regardless of whether they were correctly labelled or not, the items shall be detained and dealt with according to the laws and regulations of the country in which they were detained.	untouched by the new regime (such as licencing and monitoring of railway undertakings, safety certification and infrastructure access rights). A new unified legal railway regime assumes and might stipulate that carriage to which the legal regime applies shall remain subject to these and other prescriptions of national and international law. In case of infringements, sanctions apply – in line with applicable national public law.	
The contract of carriage and performance of carriers			
Article 6 **Contract of carriage**	**Article 7** **Consignment Note** **Article 8** **Consignment of freight**		**Article D** **Consignment Note**
§ 1 By the contract of carriage, the carrier shall undertake to carry the goods for reward to the place of destination and to deliver them there to the consignee. **§ 2** The contract of carriage must be confirmed by a consignment note which accords with a uniform model. However, the absence, irregularity or loss of the consignment note shall not affect the existence or validity of the contract which shall remain subject to these Uniform Rules. **§ 3** The consignment note shall be signed by the consignor and the carrier. The signature can be replaced by a stamp, by an accounting machine entry or in any other appropriate manner.	**Article 7 § 1, Section 1** § 1 A common consignment note shall be used to execute contracts of carriage. **Article 7 § 2, Section 1** § 2 The blank form of the consignment note shall be printed and completed in one of the OSJD working languages (Chinese or Russian), as follows: • Russian, for carriage to or from the Republic of Azerbaijan, the Republic of Belarus, the Republic of Bulgaria, the Republic of Estonia, Georgia, Hungary, the Islamic Republic of Iran, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Latvia, the Republic of Lithuania, the Republic of Moldova, Mongolia, the Republic of Poland, the	In accordance with Art.6 of CIM (Art. 4 of CMR), the contract of carriage is concluded by agreement among the parties concerned. In accordance with Art. 7 of SMGS, the contract of carriage is concluded by making out of the consignment note and by taking over of the goods and the consignment note. As the new unified legal railway regime shall only become applicable upon agreement among all parties, the conclusion of the contract of carriage would also require the agreement of all parties. This agreement could, in particular for large (volume) contracts, be reached before taking over of the goods and the consignment note.	**§ 1** The contract of carriage must be confirmed by a common consignment note. For the totality of goods (consignment) that, on the basis of a contract of carriage, is to be carried, only one consignment note shall be made out, even if the totality of goods (consignment) consist of several parts or is transported in several wagons or as a full train load. The absence, irregularity or loss of the consignment note shall not affect the existence or validity of the contract of carriage which shall remain subject to this legal railway regime as long as, in case of doubt, the validity of application of this legal railway regime can be

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	Russian Federation, the Republic of Tajikistan, Turkmenistan, Ukraine and the Republic of Uzbekistan; • Chinese or Russian, for carriage to or from the People's Republic of China, the Democratic People's Republic of Korea and the Socialist Republic of Viet Nam. The consignment note form and all or any information entered in the form may be translated into another language. **Article 7 § 1, Section 4, 1. Sentence** Sheets 1, 2, 4 and 5 of the consignment note shall accompany the shipment to the destination station. Sheet 3 (the consignment note duplicate) shall be returned to the consignor after the contract of carriage is concluded.	In accordance with CIM and SMGS, a consignment note must be made out for each consignment. One consignment does no longer need to relate to only one wagon load. Given the importance of the appropriate languages to be used, the relevant provisions of SMGS could be used in stipulating that the language versions need to be determined in advance for making out the consignment note. The new common CIM/SMGS consignment note (refer to Art. 7 § 15 SMGS) should be referred to in a new unified legal railway regime.	established.
§ 4 The carrier must certify the taking over of the goods on the duplicate of the consignment note in an appropriate manner and return the duplicate to the consignor. **§ 5** The consignment note shall not have effect as a bill of lading.	**Article 8 § 5, Section 1, Sentences 1 and 2** § 5 The contract of carriage shall be deemed to be concluded as soon as the dispatching station accepts the cargo and consignment note for carriage. Consignment shall be certified by the dispatching station's date stamp on the consignment note.		**§ 2** The international associations of carriers shall establish the uniform model consignment note, including the appropriate langue versions, in agreement with the customers' international associations and the bodies having competence for Customs matters as well as any intergovernmental regional economic integration organisation having competence to adopt its own Customs legislation.
§ 6 A consignment note must be made out for each consignment. In the absence of a contrary agreement between the consignor and the carrier, a consignment note may not relate to more than one wagon load. **§ 7** In the case of carriage which enters the customs territory of the	**Article 7 § 1, Section 4, 1. Sentence** The internal regulations in effect on the dispatching railway may require additional copies of the dispatching station's waybill to be made, as necessary, or stipulate a different number of copies for the dispatching railway.	According to CIM and SMGS (also CMR, Art. 5 CMR and Montreal Convention, Art. 7), the consignment note shall be signed or appropriately authorized by the parties concerned. If necessary, the number of copies and their handing over to the different parties and stakeholders involved	**§ 3** The consignment note shall be signed by the consignor and the carrier. The signature can be replaced by an imprint, by a stamp, by an accounting machine entry or in any other appropriate manner. The carrier must certify the taking over of the goods on the duplicate of the

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
European Community or the territory, on which the common transit procedure is applied, each consignment note must be accompanied by a consignment note satisfying the requirements of Article 7. **§ 8** The international associations of carriers shall establish uniform model consignment notes in agreement with the customers' international association and the bodies having competence for customs matters in the Member States as well as any intergovernmental regional economic integration organisation having competence to adopt its own customs legislation.	**Article 8 § 1, Section 1, 1. Sentence** § 1 A consignment is a collection of freight accepted for transport under a consignment note from a consignor at a dispatching station to a consignee at a destination station. **Article 8 § 2, Sections 1 and 2** § 2 Wagon-load consignments under a single consignment note may be used for: • Cargo not exceeding the wagon's load limit and volume restrictions; • Cargo requiring two or more coupled wagons for its transport. At the written request of the consignor, wagons and containers laden with a uniform cargo, having the same destination station and the same consignee and travelling as a group, may be consigned under a single consignment note, on condition that all of the railways involved in the transport have given their consent. **Article 7 § 1, Section 2** The consignment note shall consist of the sheets listed below: (1) Original; (2) Waybill; (3) Duplicate of the consignment note; (4) Delivery note; (5) Arrival note. The consignment note shall conform to the specimens in annex 12.1 and 12.2 and shall include the required number of copies of the waybill, conforming to the specimens in annex 12.3 and 12.4, namely: • Two copies for the dispatching railway;	could also be addressed in the new unified legal railway regime, in line with the appropriate provisions in SMGS, CMR and the Montreal Convention.	consignment note in an appropriate manner and return the duplicate to the consignor.

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	• One copy for each transit railway involved in the carriage.		
§ 9 The consignment note and its duplicate may be established in the form of electronic data registration which can be transformed into legible written symbols. The procedure used for the registration and treatment of data must be equivalent from the functional point of view, particularly so far as concerns the evidential value of the consignment note represented by those data.	**Article 7 § 14, Sections 1-3** **§ 14** The contract of carriage may be executed with an electronic consignment note. The electronic consignment note is an electronic data record which, like a paper consignment note, serves as a contract of carriage. The procedure for entering data into the electronic consignment note is to be negotiated between the railway and the consignor.	In line with CIM and SMGS, an electronic consignment note should be permitted. Following consultations with experts, further details may need to be inserted into a new legal regime taking account of the CMR Protocol of 20.02.2008 and chapter 3 of the Rotterdam Rules that provide more details on electronic registration than CIM and SMGS.	**§ 4** The consignment note and its duplicate may be established in the form of electronic data registration which can be transformed into legible written symbols. The procedure used for the registration and treatment of data must be equivalent from the functional point of view, particularly so far as concerns the evidential value of the consignment note represented by those data.
Article 7 **Wording of the consignment note**	**Article 7** **Consignment note**		**Article E** **Wording of the consignment note**
§ 1 The consignment note must contain the following particulars: (a) the place at which and the day on which it is made out; (b) the name and address of the consignor; (c) the name and address of the carrier who has concluded the contract of carriage; (d) the name and address of the person to whom the goods have effectively been handed over if he is not the carrier referred to in letter (c); (e) the place and the day of taking over of the goods; (f) the place of delivery; (g) the name and address of the consignee; (h) the description of the nature of the goods and the method of packing, and, in case of dangerous goods, the description	**Article 7 § 2, Section** 1 § 2 The blank form of the consignment note shall be printed and completed in one of the OSJD working languages (Chinese or Russian), as follows: • Russian, for carriage to or from the Republic of Azerbaijan, the Republic of Belarus, the Republic of Bulgaria, the Republic of Estonia, Georgia, Hungary, the Islamic Republic of Iran, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Latvia, the Republic of Lithuania, the Republic of Moldova, Mongolia, the Republic of Poland, the Russian Federation, the Republic of Tajikistan, Turkmenistan, Ukraine and the Republic of Uzbekistan; • Chinese or Russian, for carriage to or from the People's Republic of China, the Democratic People's Republic of Korea and	CMR (Art.6), CIM and, to some extent, SMGS and MC (Art.5 and 6) differentiate as to the content in the consignment note: (a) Always must contain; (b) Where applicable, must contain; (c) May contain. The same distinction could be followed in the new legal railway regime.	**§ 1** The consignment note must contain the following particulars: **(a) the date and the place at which it is made out;** **(b) the name and address of the consignor;** **(c) the name and address of the contractual carrier(s);** **(d) the name and address of the person to whom the goods have effectively been handed over if he is not a contractual carrier;** **(e) the place and the date of taking over of the goods;** **(f) the place designated for delivery;** **(g) the name and address of the consignee;** **(h) the description of the nature of the goods and the method of packing, and, in case of dangerous**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
provided for in the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID); (i) the number of packages and the special marks and numbers necessary for the identification of consignments in less than full wagon loads; (j) the number of the wagon in the case of carriage of full wagon loads; (k) the number of the railway vehicle running on its own wheels, if it is handed over for carriage as goods; (l) in addition, in the case of intermodal transport units, the category, the number or other characteristics necessary for their identification; (m) the gross mass or the quantity of the goods expressed in other ways; (n) a detailed list of the documents which are required by customs or other administrative authorities and are attached to the consignment note or held at the disposal of the carrier at the offices of a duly designated authority or a body designated in the contract; (o) the costs relating to carriage (the carriage charge, incidental costs, customs duties and other costs incurred from the conclusion of the contract until delivery) in so far as they must be paid by the consignee or any other statement that the costs are payable by the consignee; (p) a statement that the carriage is subject, notwithstanding any clause to the contrary, to these Uniform Rules.	the Socialist Republic of Viet Nam. The consignment note form and all or any information entered in the form may be translated into another language. **Article 7 §§ 6** to **12 (not reproduced as not relevant for the evaluation)**		**goods, their generally recognized description;** **(i) the number of packages and their special marks and numbers;** **(j) the number of the wagon(s) in which the consignment is carried** **(k) in case of using an intermodal transport unit, its category, number or other characteristics necessary for its identification;** **(l) the gross mass or the quantity of the goods expressed in other ways;** **(m) a detailed list of the documents which are required by customs or other administrative authorities and are attached the consignment note or held at the disposal of the carrier at the offices of a duly designated authority or a body designated in the contract;** **(n)** the costs relating to carriage (the carriage charge, incidental costs, customs duties and other costs incurred from the conclusion of the contract until delivery) in so far as they must be paid by the consignee, or any other statement that costs are payable by the consignee.
§ 2 Where applicable the consignment note must also contain the following particulars: (a) in the case of carriage by successive carriers, the carrier who must			**§ 2** Where applicable the consignment note must also contain the following particulars: (a) the costs which the consignor undertakes to pay;

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
deliver the goods when he has consented to this entry in the consignment note; (b) the costs which the consignor undertakes to pay; (c) the amount of the cash on delivery charge; (d) the declaration of the value of the goods and the amount representing the special interest in delivery; (e) the agreed transit period; (f) the agreed route; (g) a list of the documents not mentioned in § 1, letter n) handed over to the carrier; (h) the entries made by the consignor concerning the number and description of seals he has affixed to the wagon.			**(b) the agreed transit period;** **(c) the agreed route;** **(d) a list of the documents not mentioned in § 1, letter m, handed over to the carrier;** **(e) the entries made by the consignor concerning the number and description of seals he has affixed to the wagon.**
§ 3 The parties to the contract may enter on the consignment note any other particulars they consider useful.	**Article 7 § 13** § 13 In the consignment note under "Optional information, not binding on the railway", the consignor may make remarks on the shipment that are intended for the consignee's information only and do not place any obligations or responsibilities on the railways, such as: • "Pursuant to contract No …"; • "Job order No." (or "Instalment No." or "Order No."); • "For forwarding to …".		**§ 3** The parties may enter on the consignment note any other particulars they consider useful.
Article 8 **Responsibility for particulars entered on the consignment note**	**Article 12** **Responsibility for the information entered in the consignment note. Penalties**		**Article F** **Responsibility for particulars entered on the consignment note**
§ 1 The consignor shall be responsible for all costs, loss or damage sustained by the carrier by reason of: (a) the entries made by the consignor in the consignment note being irregular, incorrect, incomplete or made elsewhere	**Article 12 § 1** § 1 The consignor shall be liable for the correctness of all information and declarations that the consignor makes in the consignment note. The consignor shall be	Art. 8 CIM, Art. 12 § 1 SMGS, Art. 7 CMR und Art. 10 of MC contain similar provisions on the responsibility of the consignor for particulars entered on the consignment note. Art. 9 CIM und Art	**§ 1** The consignor shall be responsible for all costs, loss or damage sustained by the carrier by reason of: (a) the entries made by the consignor in the consignment note

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
than in the allotted space, or (b) the consignor omitting to make the entries prescribed by RID. **§ 2** If, at the request of the consignor, the carrier makes entries on the consignment note, he shall be deemed, unless the contrary is proved, to have done so on behalf of the consignor. **§ 3** If the consignment note does not contain the statement provided for in Article 7 § 1, letter p), the carrier shall be liable for all costs, loss or damage sustained through such omission by the person entitled.	liable for any consequences arising from incorrect, inaccurate or incomplete entries of all such information and declarations, or from any entries made in the wrong sections of the consignment note.	22 CMR also provide provisions on actions to be taken by the carrier in case he has not been informed of the dangerous nature of the goods he has taken over. On this basis, similar general provisions could be inserted into the new legal railway regime. In line with general principles of law, the consignor shall be liable for such information that the carrier enters in the consignment note at the request of the consignor. Therefore, such principles do not need to be included into the new regime.	being incorrect, or (b) the consignor omitting to make the entries prescribed in regard of dangerous goods.
Article 9 **Dangerous goods** If the consignor has failed to make the entries prescribed by RID, the carrier may at any time unload or destroy the goods or render them innocuous, as the circumstances may require, without payment of compensation, save when he was aware of their dangerous nature on taking them over.			**§ 2** If the consignor has failed to make the entries in regard of dangerous goods, the carrier may at any time unload or destroy the goods or render them innocuous, as the circumstances may require, without payment of compensation, save when he was aware of their dangerous nature on taking them over.
Article 10 **Payment of costs** **§ 1** Unless otherwise agreed between the consignor and the carrier, the costs (the carriage charge, incidental costs, customs duties and other costs incurred from the time of the conclusion of the contract to the time of delivery) shall be paid by the consignor. **§ 2** When by virtue of an agreement between the consignor and the carrier, the	**Article 15** **Payment of freight charges** **§ 1** Freight charges, calculated in accordance with article 13, shall be payable as follows: (1) For transport on the dispatching railway: payable by the consignor at the dispatching station, or as determined pursuant to the internal regulations in effect on the dispatching railways; (2) For transport on the destination	Should the new legal railway regime only be applicable upon agreement of the parties to the contract of carriage, public service obligations for the carrier (especially transport and tariff obligations) are not relevant. Thus, relevant provisions on the payment of costs in line with CMR (Art. 6 Abs. 1 lit. i und Abs. 2 lit. b, Art. 13 Abs. 2) und CIM (Art. 7 § 1 lit. o und § 2 lit.	**Article G** **Payment of costs** **§ 1** Unless otherwise agreed between the consignor and the carrier, the costs relating to carriage shall be paid by the consignor. **§ 2** When by virtue of an agreement between the consignor and the carrier, the costs are payable by the consignee, the consignor shall remain liable to pay the costs, if the consignee has not taken

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
costs are payable by the consignee and the consignee has not taken possession of the consignment note nor asserted his rights in accordance with Article 17 § 3, nor modified the contract of carriage in accordance with Article 18, the consignor shall remain liable to pay the costs.	railway: payable by the consignee at the destination station, or as determined pursuant to the internal regulations in effect on the destination railways; (3) For transport on the transit railway: payable by the consignor at the dispatching station or the consignee at the destination station. If transport involves several transit railways, it may be possible for payment to be made by the consignor for transport on one or more transit railways, and by the consignee for transport on the others. Such an arrangement for the payment of freight charges requires the existence of an agreement to that effect between the railways in question; (4) For transport on transit railway: payable by the consignor or the consignee through a payment agent (freight forwarder, freight agent, etc.) having a contract with each of the transit railways in question for the payment of freight charges. **§§ 2 to 7 (not reproduced as not relevant for the evaluation**) **Article 13** **Fees - Calculation of freight charges and penalties** **§ 1** Freight charges, i.e. payment for the transport of freight, the travel of any attendants or road train drivers, any surcharges or other expenditure arising between the time a shipment is consigned and the time it is handed over to the consignee, shall be calculated according to the tariffs in force on the day the contract of carriage is concluded, as follows: (1) For services between stations of the railways of neighbouring countries, the	b, Art. 10 und Art. 17 § 1)) could be included into the new legal regime. In case costs are already described in the provisions relating to details of the consignment note, it might be sufficient to only refer to the "costs relating to carriage".	possession of the consignment note nor asserted his rights in accordance with Article **M §§ 2 and 3** nor modified the contract of carriage in accordance with Article **N.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	freight charges for transport on the railways of the country of dispatch and the destination country shall be calculated according to the tariffs used by the railways of these countries for such shipments; (2) For services that include a transit segment, the freight charges for transport on the railways of the country of dispatch and the destination country shall be calculated according to the tariffs used by the railways of these countries for such shipments; the freight charges for the transit shall be calculated according to the transit tariff applicable for the international shipment in question. **§§ 2 to 6 (not reproduced as not relevant for the evaluation**) **Art. 12 § 3, Section** 1 **§ 3** Penalties may be charged for incorrect, inaccurate or incomplete or imprecise information or declarations shown in the consignment note that result in: **(**1) The consignment of goods that are prohibited for transport under article 4, § 1, paragraphs 1 to 6; (2) The consignment of goods that, under article 5, § 7, are only authorized for transport subject to special conditions, without the applicable conditions being respected; (3) The consignor allowing the wagon to be overloaded beyond its maximum load limit (art. 9, § 6). Penalties covered by paragraphs 1 and 2 above shall be charged on the basis of article 15, in an amount equal to five times the freight charge on the railway on which the infraction was discovered.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	Penalties covered by paragraph 3 above shall be charged on the basis of article 15, in an amount equal to five times the freight charge for the excess mass on the railway on which the discrepancy was discovered. However, no such penalty shall be charged if the consignor has made an entry in the consignment note under "Consignor's remarks" regarding the necessity for the railway to weigh the wagon in its laden condition, in accordance with the internal regulations in effect on the dispatching railway. The railway shall be entitled to charge the penalties provided for by this section, independently of any other compensation for damage or other penalties paid by the consignor or consignee pursuant to the Agreement.		
Article 11 **Examination**	**Article 12** **Responsibility for the information entered in the consignment note. Penalties**		**Article H** **Examination**
§ 1 The carrier shall have the right to examine at any time whether the conditions of carriage have been complied with and whether the consignment corresponds with the entries in the consignment note made by the consignor. If the examination concerns the contents of the consignment, this shall be carried out as far as possible in the presence of the person entitled; where this is not possible, the carrier shall require the presence of two independent witnesses, unless the laws and prescriptions of the State where the examination takes place provide otherwise.	**Article 12 § 2** The railway may verify the correctness of any information or declaration that the consignor makes in the consignment note. If upon consignment at the dispatching station the consignment note is found to contain inaccuracies, and correction is not permitted under article 7, § 5, the consignor shall be required to submit a new consignment note. While en route, the cargo contents may only be inspected if customs or other rules so require, or in order to ensure the safety of train movements and protect the cargo while en route. If an inspection of the cargo conducted en route or at the destination station reveals that	Art. 11 of CIM und Art. 12 § 2 as well as Art. 9 § 7 of SMGS contain similar provisions on the examination of the goods. Thus, relevant provisions in the new legal railway regime could be based on the shorter provisions in CIM and, in the interest of rail customers, could also include relevant provisions of Art. 12 § 2 Section 3 of SMGS.	**§ 1** The carrier shall have the right to examine at any time whether the conditions of carriage have been complied with and whether the consignment corresponds with the entries in the consignment note made by the consignor. If the examination concerns the contents of the consignment, this shall be carried out as far as possible in the presence of the person entitled; where this is not possible, the carrier shall require the presence of two independent witnesses, unless the laws and prescriptions of the State where the examination takes place provide otherwise.

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	the information provided in the consignment note is inaccurate, the station that conducted the inspection shall make an official report in accordance with article 18 and register the report in the consignment note under "Official report". In such a case the total sum of all the expenses related to the inspection shall be recorded in the consignment note and recovered from the consignor, if the inspection was conducted by the dispatching railway, or from the consignee, if it was conducted by the destination railway. If the inspection was conducted on a transit railway, then the costs shall be recovered from either the consignor or the consignee, depending on which of them is responsible for paying the freight charges for the transit railway in question. If the consignor or consignee is paying the transit railway freight charges through a payment agent (freight forwarder, freight agent, etc.) having a contract with the transit railway for the payment of freight charges, the costs shall be recovered from the agent (freight forwarder, freight agent, etc.) in accordance with the internal regulations in effect on the transit railways. If it is discovered that the cargo has been incorrectly designated in the consignment note, the freight charges for the entire route shall be calculated according to the tariff class of the cargo actually carried, and collected in accordance with article 15.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 2 If the consignment does not correspond with the entries in the consignment note or if the provisions relating to the carriage of goods accepted subject to conditions have not been complied with, the result of the examination must be entered in the copy of the consignment note which accompanies the goods, and also in the duplicate of the consignment note, if it is still held by the carrier. In this case the costs of the examination shall be charged against the goods, if they have not been paid immediately.			**§ 2** If the consignment does not correspond with the entries in the consignment note or if the provisions of public law have not been complied with, the result of the examination must be entered in the copy of the consignment note which accompanies the goods, and also in the duplicate of the consignment note, if it is still held by the carrier. In this case the costs of the examination shall be charged against the goods, if they have not been paid immediately. While en route, the cargo contents may only be inspected if customs or other rules so require, or in order to ensure the safety of train movements and protect the cargo while en route.
§ 3 When the consignor loads the goods, he shall be entitled to require the carrier to examine the condition of the goods and their packaging as well as the accuracy of statements on the consignment note as to the number of packages, their marks and numbers as well as the gross mass of the goods or their quantity otherwise expressed. The carrier shall be obliged to proceed with the examination only if he has appropriate means of carrying it out. The carrier may demand the payment of the costs of the examination. The result of the examination shall be entered on the consignment note.	**Article 9** **Containers, packaging, labelling, loading, determination of mass and quantity of cargo items** **§ 7** The mass and the number of items shall be determined in accordance with the internal regulations in effect on the dispatching railway. However: (1) Cargo that is to be transported in open rolling stock with unsealed tarpaulin covering or no covering at all may be consigned, with the mandatory indication by the consignor in the consignment note of the following: • The number of cargo items and their mass if the total number of items does not exceed 100; • The cargo mass only if the number of cargo items exceeds 100. In this case the consignor shall write “bulk cargo” for quantity in the consignment note.	In accordance with Art. 8 of CMR, the carrier is obliged to make certain examinations relating to entries in the consignment note and the contents of the consignment, even if the consignor does not require such examinations. The introduction of such a requirement does not seem to be appropriate for rail transport given its different operational requirements compared to road transport. The provisions on to the evidential weight of the consignment note (Article I of the new convention) specify which examinations the carrier should carry out in his own interest to safeguard his rights.	**§ 3** When the consignor loads the goods, he shall be entitled to require the carrier to examine the condition of the goods and their packaging as well as the accuracy of statements on the consignment note as to the number of packages, their marks and numbers as well as the gross mass of the goods or their quantity otherwise expressed. The carrier shall be obliged to proceed with the examination only if he has appropriate means of carrying it out. The carrier may demand the payment of the costs of the examination. The result of the examination shall be entered on the consignment note.

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	(2) Small articles without packaging shall be accepted for transport by total mass, without indicating the number of such articles. under "Number of items" in the consignment note the consignor shall write "bulk cargo"; (3) It is not necessary at the time of consignment to determine the mass of packaged items whose mass has been determined during packaging and individually labelled; nor that of items having a single, standard mass; In such cases, the consignor shall indicate the number of items and the total cargo mass in the consignment note and, under "Manner of determining the mass", the method used to determine the total mass: either using the standard mass ("According to standard mass") or using the mass shown on the cargo item ("According to inscription"). (4) If an entry is made in the consignment note both under "cargo mass (in kg) as determined by the consignor" and "cargo mass (in kg) as determined by the railway", the mass determined by the railway shall be deemed the reference mass, except in the cases stipulated in article 23, § 4, paragraphs 1 to 3.		
Article 12 **Evidential value of the consignment note**	**Article 8** **Consignment of freight**		**Article I** **Evidential value of the consignment note**
§ 1 The consignment note shall be prima facie evidence of the conclusion and the conditions of the contract of carriage and the taking over of the goods by the carrier.	**§ 6** A duly stamped consignment note shall be considered proof that a contract of carriage has been concluded. **Article 23 Limitation of liability** **§ 6** Information given by the consignor in the consignment note concerning the mass	Unlike the CMR, CIM distinguishes, with regard to the probative value of the consignment note, as to whether the carrier or the consignor has loaded the goods. This is due to the different operational procedures in road and rail transport.	**§ 1** The consignment note, signed [or duly authorized] by the consignor and the carrier shall be prima facie evidence of the conclusion and the conditions of the contract of carriage and the taking over of the goods by the carrier.

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	and quantity of goods may serve as evidence against the railway: (1) If the mass was checked by the railway and the information was recorded in the consignment note under "Mass (in kg)" to be inserted by the railway and certified by it in the column for the stamp and signature of the weighing station; (2) If the quantity of goods was checked by the railway and information on the quantity of items was recorded in the consignment note under "Railway's remarks" and certified by an employee's signature and the stamp of the station. This requirement does not apply in the cases provided for in § 4 of this article.	SMGS addresses the probative value of the consignment note in different provisions, however in a more restricted manner compared to CMR and CIM. The new unified legal railway regime could contain provisions that are based on CMR, but take account of the specific operational procedures of railways.	**§ 2** If the consignment note contains no specific reservations by the carrier, it is assumed, failing proof to the contrary, that the goods and their packaging have apparently been in good condition at the moment they were taken over by the carrier.
§ 2 If the carrier has loaded the goods, the consignment note shall be prima facie evidence of the condition of the goods and their packaging indicated on the consignment note or, in the absence of such indications, of their apparently good condition at the moment they were taken over by the carrier and of the accuracy of the statements in the consignment note concerning the number of packages, their marks and numbers as well as the gross mass of the goods or their quantity otherwise expressed. **§ 3** If the consignor has loaded the goods, the consignment note shall be prima facie evidence of the condition of the goods and of their packaging indicated in the consignment note or, in the absence of such indication, of their apparently good condition and of the accuracy of the statements referred to in § 2 solely in the case where the carrier has			**§ 3** If the carrier has loaded the goods or has examined them according to Art. H, the consignment note shall be prima facie evidence of the condition of the goods and their packaging indicated on the consignment note or, in the absence of such indications, of their apparently good condition at the moment they were taken over by the carrier and of the accuracy of the statements in the consignment note concerning the number of packages, their marks and numbers as well as the gross mass of the goods or their quantity otherwise expressed.

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
examined them and recorded on the consignment note a result of his examination which tallies.			
§ 4 However, the consignment note will not be prima facie evidence in a case where it bears a reasoned reservation. A reason for a reservation could be that the carrier does not have the appropriate means to examine whether the consignment corresponds to the entries in the consignment note.			However, the consignment note will not be prima facie evidence in a case where it bears a reasoned reservation.
Article 13 **Loading and unloading of the goods**	**Article 9** **Containers, packaging, labelling, loading, determination of mass and quantity of cargo items**		**Article J** **Packing, Loading**
§ 1 The consignor and the carrier shall agree who is responsible for the loading and unloading of the goods. In the absence of such an agreement, for packages the loading and unloading shall be the responsibility of the carrier whereas for full wagon loads loading shall be the responsibility of the consignor and unloading, after delivery, the responsibility of the consignee.	**§ 1** Goods requiring a container or packaging to protect them from loss, damage, spoilage or any deterioration in the course of transport, to prevent damage to the vehicles or other loads, or to prevent any harm or injury to people, shall be presented for consignment in a suitable container or packaging that fully meets these requirements. The consignor shall be liable for all the consequences of the absence or unsatisfactory condition of such a container or packaging, and shall, in particular, compensate the railway for any damage sustained as a result.	CIM and SMGS address both packaging and loading of the goods, while CMR only regulates the packaging. If the new legal railway regime is to continue to regulate also the loading of the goods, then this should be done in a single rule, similar to SMGS.	**§ 1 The consignor shall be liable to the carrier for any loss or damage and costs due to defective packing of the goods, unless the defect was apparent or known to the carrier at the time when he took over the goods and he made no reservations concerning it.**
§ 2 The consignor shall be liable for all the consequences of defective loading carried out by him and must in particular compensate the carrier for the loss or damage sustained in consequence by him. The burden of proof of defective loading shall lie on the carrier.	If such goods are consigned without the container or packaging, or if the container or packaging is defective, or unsuitable for the cargo in question, or does not allow for its transfer from one wagon to another, the railway shall decline to accept the cargo in question, if a visual inspection reveals that the container or packaging does not meet the requirements, or is incompatible with safe		**§ 2 The consignor shall be liable for all the consequences of defective loading carried out by him and must in particular compensate the carrier for the loss or damage sustained in consequence by him.**
Article 14 **Packing**			
The consignor shall be liable to the carrier for any loss or damage and costs due to the absence of, or defects in, the packing			

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
of goods, unless the defectiveness was apparent or known to the carrier at the time when he took over the goods and he made no reservations concerning it.	transport of the cargo, or is defective. The railway has an obligation to conduct a visual inspection of the cargo container or packaging only in those cases where the cargo is to be loaded by the railway, or by the consignor under the supervision of a railway official. If the railway declines to accept some cargo, it is to make, at the consignor's request, a written record thereof and provide a copy of the record to the consignor. **§ 4, Section 3** The internal regulations in effect on the dispatching railway shall be used to determine whether cargo is to be loaded by the railway or the consignor. If it is the consignor, then the consignor shall have responsibility for determining the suitability of the wagon for transporting the cargo in question.		
Article 15 **Completion of administrative formalities**	**Article 11** **Accompanying documents required by customs or other regulations**		**Article K** **Completion of administrative formalities**
§ 1 With a view to the completion of the formalities required by customs and other administrative authorities, to be completed before delivery of the goods, the consignor must attach the necessary documents to the consignment note or make them available to the carrier and furnish him with all the requisite information. **§ 2** The carrier shall not be obliged to check whether these documents and this information are correct and sufficient. The consignor shall be liable to the carrier for any loss or damage resulting from the	**§ 1, Section 1** **§ 1** The consignor shall attach to the consignment note such accompanying documents as may be required for the purpose of complying with customs or other regulations along the entire route followed by the cargo, along with any certificate or specifications that may be required. The documents must pertain to the goods declared in the consignment note. **§ 2, Sections 1 and 2** **§ 2** The railway is not obliged to verify that the documents that the consignor has	The new legal railway regime could be based on Article 11 of CMR and should not take over the detailed provisions of Art. 15, § § 4–8 of CIM.	**§ 1 For the purposes of the customs or other formalities which have to be completed before delivery of the goods, the consignor shall attach the necessary documents to the consignment note or make them available to the carrier and shall furnish him with all the information which he requires.** **§ 2 The carrier shall not be obliged to check whether these documents and this information are correct and sufficient. The consignor shall be liable to the carrier for any**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
absence or insufficiency of, or any irregularity in, such documents and information, save in the case of fault of the carrier. **§ 3** The carrier shall be liable for any consequences arising from the loss or misuse of the documents referred to in the consignment note and accompanying it or deposited with the carrier, unless the loss of the documents or the loss or damage caused by the misuse of the documents has been caused by circumstances which the carrier could not avoid and the consequences of which he was unable to prevent. Nevertheless any compensation payable shall not exceed that provided for in the event of loss of the goods. **§ 4** The consignor, by so indicating in the consignment note, or the consignee by giving orders as provided for in Article 18 § 3 may ask: (a) to be present himself or to be represented by an agent when the customs or other administrative formalities are carried out, for the purpose of furnishing any information or explanation required; (b) to complete the customs or other administrative formalities himself or to have them completed by an agent, in so far as the laws and prescriptions of the State in which they are to be carried out so permit; (c) to pay customs duties and other charges, when he or his agent is present at or completes the customs or other administrative formalities, in so far as the laws and prescriptions of the State in which they are carried out permit such payment.	attached to the consignment note are accurate and complete. The consignor is liable to the railway for any consequences arising from the fact that any accompanying documents are missing, incomplete or inaccurate. **Article 23, § 1, Section 1** **§ 1** Under the conditions set forth in this section, the railway is liable for any delay in the delivery of goods and for any damage resulting from total or partial loss, mass shortfall, damage, deterioration or loss of quality of the goods for other reasons between their receipt for carriage and delivery at the destination station or, in the case of reconsignment to countries whose railways are not covered by the Agreement, until registration of carriage in a consignment note under another agreement on direct international rail transport of goods. **Article 23 § 2** **§ 2** In any case, where the railway has liability, compensation paid for damages should not exceed the amount which would have been payable in the case of total loss of the goods.		**damage caused by the absence or insufficiency of, or any irregularity in, such documents and information except in the case of fault of the carrier.** **§ 3 The carrier shall be liable for any consequences arising from the loss or incorrect use of the documents which were made available to him unless the loss of the documents or the loss or damage caused by the incorrect use of the documents has been caused by circumstances which the carrier could not avoid and the consequences of which he was unable to prevent. The compensation payable by the carrier shall not exceed the compensation provided for in the event of loss of the goods.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
In such circumstances neither the consignor, nor the consignee who has the right of disposal, nor the agent of either may take possession of the goods.			
§ 5 If, for the completion of the customs or other administrative formalities, the consignor has designated a place where the prescriptions in force do not permit their completion, or if he has stipulated for the purpose any other procedure which cannot be followed, the carrier shall act in the manner which appears to him to be the most favourable to the interests of the person entitled and shall inform the consignor of the measures taken.			
§ 6 If the consignor has undertaken to pay customs duties, the carrier shall have the choice of completing customs formalities either in transit or at the destination place.			
§ 7 However, the carrier may proceed in accordance with § 5 if the consignee has not taken possession of the consignment note within the period fixed by the prescriptions in force at the destination place.			
§ 8 The consignor must comply with the prescriptions of customs or other administrative authorities with respect to the packing and sheeting of the goods. If the consignor has not packed or sheeted the goods in accordance with those prescriptions the carrier shall be entitled to do so; the resulting cost shall be charged against the goods.			

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Article 16 **Transit periods**	**Article 14** **Delivery times for cargo**		**Article L** **Transit periods**
§ 1 The consignor and the carrier shall agree the transit period. In the absence of an agreement, the transit period must not exceed that which would result from the application of §§ 2 to 4.	**§ 1** The delivery time shall be calculated for the complete journey on the basis of the following rules:	The transit period should be determined primarily by agreement of the parties, as provided in Art. 19 of CMR, Art. 16 **CIM** and in Art. 14, § 7 of SMGS.	**§ 1 The consignor and the carrier shall agree the transit period. In the absence of an agreement, the transit period shall not exceed the period resulting from the application of §§ 2 to 4.**
§ 2 Subject to §§ 3 and 4, the maximum transit periods shall be as follows: (a) for wagon-load consignments - period for consignment 12 hours - period for carriage, for each 400 km or fraction thereof 24 hours; (b) for less than wagon-load consignment - period for consignments 12 hours - period for carriage, for each 200 km or fraction thereof 24 hours.	(1) For express shipments: 1.1 Period for consignment ..... 1 day 1.2 Period for carriage in a small consignment or in a medium-capacity container, for each tariff segment of 200 km or portion thereof and for each railway involved in the transport..... 1 day 1.3 Period for carriage in a wagon-load consignment, piggyback consignment or large-capacity container, for each tariff segment of 320 km or portion thereof and for each railway involved in the transport.. 1 day 1.4 Period for carriage in a wagon-load consignment transported with a passenger train (art. 7, § 4) for each tariff segment of 420 km or portion thereof and for each railway involved in the transport..... 1 day (2) For non-express shipments: 2.1 Period for consignment ..... 1 day 2.2 Period for carriage in a small consignment or in a medium-capacity container, for each tariff segment of 150 km or portion thereof and for each railway involved in the transport..... 1 day 2.3 Period for consignment in a wagon-load consignment, piggyback consignment or large-capacity container, for each tariff segment of 200 km or portion thereof and for each railway involved in the transport.. 1 day	The agreed transit period may be limited to full wagon loads (see proposed Art. A § 1).	**§ 2 Subject to §§ 3 and 4, the maximum transit period shall be … hours for the period for consignment and 24 hours for each … km (or fraction thereof) distance of carriage. The distances shall relate to the agreed route or, in the absence thereof, to the shortest possible route.**
§ 3 The carrier may fix additional transit periods of specified duration in the following cases: (a) consignments to be carried - by lines of a different gauge, - by sea or inland waterway, - by road if there is no rail link; (b) exceptional circumstances causing an exceptional increase in traffic or exceptional operating difficulties. The duration of the additional transit periods must appear in the General Conditions of Carriage.			**§ 3 The carrier may fix additional transit periods of specified duration for the case that exceptional circumstances cause an exceptional increase in traffic or exceptional operating difficulties. The duration of the additional transit periods shall appear in the General Conditions of Carriage.**
§ 4 The transit period shall start to run after the taking over of the goods; it shall be extended by the duration of a stay caused without any fault of the carrier.			**§ 4 The transit period shall start to run after the taking over of the goods; it shall be extended by the duration of a stay caused without any fault of the carrier. (*The transit period shall be suspended on Sundays and statutory holidays.***

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
The transit period shall be suspended on Sundays and statutory holidays.	The cargo delivery time shall be considered to begin at midnight at the end of the day on which the cargo and consignment note are accepted for shipment. If cargo is accepted and temporarily stored pending dispatch, the delivery time shall be considered to begin at midnight at the end of the day on which the cargo is scheduled to be loaded. The date on which the cargo is loaded shall be recorded in the consignment note. § 2 The delivery time shall be calculated on the basis of the distance actually travelled by the cargo between the dispatching station and the destination station. § 3 The delivery time shall be prolonged by 48 hours in the following cases: (1) If cargo is transhipped to wagons of a different gauge width; (2) If wagons are moved onto bogies of a different gauge width; (3) If wagons are moved by ferry. § 4 When transporting out-of-gauge loads, the delivery time calculated in accordance with §§ 1 and 3 above shall be doubled. § 5 The delivery time shall be extended for: (1) Delays for completing customs and other formalities; (2) Interruptions in the journey for which the railway is not responsible, and which temporarily delay shipment or travel; (3) Delays resulting from a change in the contract of carriage; (4) Delays for verification of the correctness of the information given in the consignment note about the cargo or verification of the applicable precautions for		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	items subject to special conditions, if the verification reveals any discrepancy; (5) In-station delays caused by the watering of livestock or the removal of livestock from the wagon for a veterinary inspection; (6) Unloading of excess mass, rectifications to the cargo or its packaging or containers, transhipment, or rectification of the freight stowage, if the consignor is at fault; (7) Other delays for which the consignor or consignee is at fault. The railway shall record in the consignment note under "Extension of transit period" the reasons for any delays resulting in an extension of the cargo delivery deadline and the length of the extension. § 6 The delivery time shall be considered to have been respected if the cargo arrives at the destination station before the expiry of the delivery time and is ready to be made available to the consignee, the consignee being informed thereof by the railway. The procedure for so informing the consignee shall be that established in the internal regulations in effect on the destination railway. If, under the internal regulations in effect on the destination railway, the cargo is to be delivered to the consignee at the address specified in the consignment note, the delivery time shall be considered to have been respected if the cargo has been delivered to the consignee before the expiry of the delivery time. If part of the cargo is being transported under a supplementary consignment note, the delivery time shall be calculated for the		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	portion of the cargo that is delivered under the main consignment note. § 7 The consignor and the railways involved in the transport may agree on other delivery times.		
Article 17 **Delivery** **§ 1** The carrier must hand over the consignment note and deliver the goods to the consignee at the place designated for delivery against receipt and payment of the amounts due according to the contract of carriage. **§ 2** It shall be equivalent to delivery to the consignee if, in accordance with the prescriptions in force at the place of destination: (a) the goods have been handed over to customs or octroi authorities at their premises or warehouses, when these are not subject to the carrier's supervision; (b) the goods have been deposited for storage with the carrier, with a forwarding agent or in a public warehouse. **§ 3** After the arrival of the goods at the place of destination, the consignee may ask the carrier to hand over the consignment note and deliver the goods to him. If the loss of the goods is established or if the goods have not arrived on the expiry of the period provided for in Article 29 § 1, the consignee may assert, in his own name, his rights against the carrier under the contract of carriage.	**Article 17** **Release of cargo. Cargo tracing** **§ 1** The railway is under the obligation, upon arrival of the cargo at the destination station, to release it to the consignee, along with the original of the consignment note and the arrival note (sheets 1 and 5 of the consignment note), as soon as the consignee has settled all freight charges due to the railway according to the consignment note; the consignee is under the obligation to pay the freight charges and receive the goods. If the internal regulations in effect on the destination railway so allow, the cargo may be released before the consignee has paid the freight charges. The consignee may decline to receive the cargo only if damage, deterioration or other factors have changed their condition to such an extent that no possibility exists to use them, wholly or in part, for the purpose originally intended. **§ 2** The consignee shall make all payments due to the railway under the consignment note in full, even if a portion of the cargo listed therein is missing. In that case the consignee shall be entitled to make a claim in accordance with article 29 for reimbursement of that portion of the freight payment in the consignment note that corresponds to the missing portion of cargo.	The new legal railway regime could be based on Art. 13 of CMR, Art. 17 of CIM and Art. 17 § 1 of SMGS. It could also foresee the possibility of a lien ("Pfandrecht") of the carrier in line with Art.19 of SMGS.	**Article M** **Delivery** **§ 1 At the place of delivery the carrier shall hand over the consignment note and deliver the goods to the consignee against a receipt and payment of the amounts due according to the contract of carriage.** **§ 2 After the arrival of the goods at the place of delivery, the consignee shall be entitled to require the carrier to deliver to him, according to § 1, the consignment note and the goods. In the event of dispute on this matter the carrier shall not be required to deliver the goods unless security has been furnished by the consignee.** **§ 3 If the loss of the goods is established or if the goods are damaged or delivered late, the consignee shall be entitled to enforce in his own name against the carrier any rights arising from the contract of carriage.** **§ 4 In other respects, delivery of the goods shall be carried out in accordance with the prescriptions in force at the place of destination.** **§ 5 The carrier has a lien over the goods and the accompanying documents for all claims founded on**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 4 The person entitled may refuse to accept the goods, even when he has received the consignment note and paid the charges resulting from the contract of carriage, so long as an examination which he has demanded in order to establish alleged loss or damage has not been carried out. **§ 5** In other respects, delivery of the goods shall be carried out in accordance with the prescriptions in force at the place of destination. **§ 6** If the goods have been delivered without prior collection of a cash on delivery charge, the carrier shall be obliged to compensate the consignor up to the amount of the cash on delivery charge without prejudice to his right of recourse against the consignee.	**§ 3** Packaged goods that are weighed at the time of packing and that have their mass shown on each item, and items of identical, standard mass, shall be released without weighing as long as the package or container is intact. **§ 4** Otherwise, the cargo shall be released in accordance with the SMGS provisions and the internal regulations in effect on the destination railway if the necessary regulations are lacking in SMGS. **§ 5** If a cargo has not been released to the consignee within 30 days following the delivery date, the consignor or the consignee shall have the right to file with the railway a request for the cargo to be traced. The tracing request shall be filed with the dispatching station by the consignor, or with the destination station by the consignee, using the blank form provided in annex 15 in duplicate, presenting at the same time the duplicate consignment note (sheet 3 of the consignment note) or the original of the consignment note and the arrival note (sheets 1 and 5 of the consignment note) no later than three months after the expiry of the delivery time. The dispatching or destination station shall confirm receipt of the tracing request with a date stamp and the signature of the station official registering the request on the original and duplicate of the tracing request, and return one copy of the request to the requester. A tracing request does not constitute a claim under article 29. **§ 6** The consignor shall be entitled to consider the cargo as lost if it has not been		**the contract of carriage. The lien persists as long as the carrier has possession of the goods. The legal force of the lien shall be determined by the laws and prescriptions in force at the place where the lien is asserted.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	released to the consignor within 30 days following the delivery date as calculated pursuant to article 14 and the destination station has made an entry reading “Goods not arrived” under “Description of the goods” in the duplicate of the consignment note (sheet 3) or the original of the consignment note and the arrival note (sheets 1 and 5 of the consignment note) presented by the consignee. The entry must be certified with the date stamp of the destination station. Should the cargo arrive at the destination station after the expiry of the delivery time, the consignee is to be notified thereof. The consignee is to receive the cargo, if it arrives not more than six months after the expiry of the delivery time, and reimburse the railway for the amount received from it by way of compensation for the loss of the cargo or reimbursement of freight charges and other shipping-related expenditures. If the compensation for the loss of the cargo and the reimbursement of shipping-related expenditures was paid to the consignor, the latter shall reimburse the railway. In that case the consignee shall retain the right to demand a penalty for late delivery of the cargo from the railway, along with compensation for the partial loss of the cargo, diminished weight, damage, spoilage of the recovered goods or their deterioration for any other reason.		
Article 18 **Right to dispose of the goods**	**Article 20** **Right of and procedure for modification of the contract of carriage**		**Article N** **Right to dispose of the goods**
§ 1 The consignor shall be entitled to dispose of the goods and to modify the contract of carriage by giving subsequent orders. He may in particular ask the carrier:	**§ 1** Both the consignor and the consignee shall be entitled to make modifications to the contract of carriage.	The new legal railway regime could be based on Art. 12, Sections 1–4 of CMR, Art. 18 of CIM and Art. 20 §§ 1- 3 and 7 of SMGS.	**§ 1 The consignor has the right to dispose of the goods and to modify the contract of carriage by giving subsequent orders, in particular by asking the carrier to stop the goods in**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
(a) to discontinue the carriage of the goods; (b) to delay the delivery of the goods; (c) to deliver the goods to a consignee different from the one entered on the consignment note; (d) to deliver the goods at a place other than the place of destination entered on the consignment note. **§ 2** The consignor's right to modify the contract of carriage shall, notwithstanding that he is in possession of the duplicate of the consignment note, be extinguished in cases where the consignee: (a) has taken possession of the consignment note; (b) has accepted the goods; (c) has asserted his rights in accordance with Article 17 § 3; (d) is entitled, in accordance with § 3, to give orders; from that time onwards, the carrier shall comply with the orders and instructions of the consignee. **§ 3** The consignee shall have the right to modify the contract of carriage from the time when the consignment note is drawn up, unless the consignor indicates to the contrary on the consignment note. **§ 4** The consignee's right to modify the contract of carriage shall be extinguished in cases where he has: (a) taken possession of the consignment note; (b) accepted the goods; (c) asserted his rights in accordance with Article 17 § 3;	For the carriage of goods to the Socialist Republic of Viet Nam, the People's Republic of China and the Democratic People's Republic of Korea, to consignees shown on the consignment note to be State organizations, reconsignment of the goods at border stations of the country of destination shall be carried out by those countries' foreign trade organizations. **§ 2** The consignor may modify the contract of carriage as follows: (1) To withdraw the goods from the dispatching station; (2) To change the destination station. In this case, where necessary, the border station through which the goods are to pass after modification of the contract of carriage should be indicated, as should the payer of any transit charges that arise from the modification to the contract of carriage, if such charges are to be paid by the payment agent (freight forwarder, freight agent, etc.); (3) To change the consignee; (4) To return the goods to the dispatching station. **§ 3** The consignee may modify the contract of carriage as follows: (1) To change the destination station within the borders of the destination country; (2) To change the consignee. The consignee may modify the contract of carriage on the basis of the Agreement only at the border station of entry into the country of destination and only if the goods have not yet left that station. In the event that the goods have already passed through the border station of	Provisions in line with Art. 20 § 7 of SMGS seem to be more appropriate than those in Art. 18 § 3 of CIM and could also be included.	**transit or not to deliver them or to give them back at the place of taking over of the goods or to change the place of delivery or to deliver them to a consignee other than the consignee indicated in the consignment note.** **§ 2 The consignor's right of disposal is transferred to the consignee at the time specified by the consignor in the consignment note. Unless the consignor has specified otherwise, the right of disposal shall be transferred to the consignor when the goods have reached the country of destination. If the consignee has the right of disposal, the carrier shall obey only the orders of the consignee.** **§ 3 If in exercising his right of disposal the consignee has ordered the delivery of the goods to another person, this other person shall not be entitled to name other consignees.** **§ 4 Any right of disposal shall be extinguished when the consignee or another person entitled has taken possession of the consignment note or has accepted the goods or asserted his rights in accordance with Article M §§ 2 and 3.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
(d) given instructions for delivery of the goods to another person in accordance with § 5 and when that person has asserted his rights in accordance with Article 17 § 3.	entry into the country of destination, the consignee may modify the contract of carriage only in accordance with the internal regulations applicable on the destination railway.		
§ 5 If the consignee has given instructions for delivery of the goods to another person, that person shall not be entitled to modify the contract of carriage.	**§ 4** Any modification of the contract of carriage that would have the effect of splitting the consignment shall not be allowed.		
	§ 5 The contract of carriage may be modified by means of a written declaration by the consignor or the consignee using the form in annex 17. The destination railway may use a form drawn up in accordance with its own internal regulations for any modifications to the contract of carriage by the consignee.		
	The consignor shall complete a declaration of modification of the contract of carriage in accordance with the instructions in article 7, § 2, regarding translation into the working languages of the Organization for Cooperation between Railways (OSJD).		
	A separate copy of the declaration of modification of the contract of carriage must be made out for each consignment and presented by the consignor at the dispatching station and by the consignee at the border station of entry into the country of destination. The consignor shall enter the text of the declaration into the duplicate consignment note under “Description of the goods” (sheet 3 of the consignment note), which must be presented to the railway together with the declaration.		
	A declaration of modification of the contract of carriage by the consignee may be presented for several consignments if they are		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	being transported in a group of wagons and if the modification of the contract of carriage for the goods concerns the same station and the same consignee. The dispatching station shall acknowledge receipt of the declaration of modification of the contract of carriage by affixing an official date stamp on the duplicate consignment note below the consignor's declaration, together with the signature of the station employee receiving the declaration; the duplicate consignment note is then returned to the consignor. The consignee may present a declaration of modification of the contract of carriage without the duplicate consignment note. **§ 6** If the goods have already left either the dispatching station or the border station, the relevant station must, at the consignor's expense, inform intermediate stations and the destination station by telegram of the consignor's declaration of modification of the contract of carriage. The telegram must be confirmed by sending the original declaration of modification of the contract of carriage to the station where the goods have been stopped in accordance with the telegram. However, that station shall modify the contract of carriage on the strength of the telegraphic notification from the dispatching station, without awaiting receipt of the consignor's written declaration. In such instances, the railway shall not be liable for any possible distortion of the consignor's declaration by the telegraph system. **§ 7** The consignor's right to modify the contract of carriage shall cease as soon as the		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	consignee receives the consignment note or the goods arrive at the border station of entry of the destination railway if that station is in possession of a written declaration by the consignee or telegraphic notification from the destination station of a declaration of modification of the contract of carriage by the consignee. **§ 8** The consignor shall not be liable for consequences arising from any modification to a contract of carriage based on a consignee's written declaration or telegraphic notification from the destination station. **§ 9** A contract of carriage may be modified once by the consignor and once by the consignee. **§ 10** A railway shall be entitled to refuse to make a modification to a contract of carriage or delay its execution only if: (1) Such modification is not feasible for the station of the destination railway that should make the modification at the time when it receives the written declaration or telegraphic notification from the dispatching station or the destination station; (2) It might disrupt the railway's operations; (3) It is contrary to the domestic regulations and legislation of the countries whose railways are participating in the carriage; (4) Where, if the destination station is changed, the value of the goods does not cover all foreseeable charges for carriage to the new destination station, except where the amount of these charges is paid immediately or guaranteed.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	§ 11 In the cases referred to in § 10 of this article, the railway shall, to the extent possible, immediately notify the consignor or the consignee of the circumstances that prevent modification of the contract of carriage. If, having been unable to foresee such impediments, the railway modifies the contract of carriage, then either the consignor or the consignee, depending on who made the declaration of modification of the contract of carriage, shall be liable for all the consequences arising therefrom. **§ 12** In the event of a modification being made to the contract of carriage, the carriage charges shall be calculated and recovered in accordance with articles 13 and 15, taking into account the following factors: (1) If the goods are to be delivered to a station en route, carriage charges shall be calculated and recovered for carriage only as far as that station. If the goods have already passed the new destination station and the railway returns them to that station, the railway shall calculate and recover, in addition to the charges for carriage to the station at which the goods are stopped, the amount corresponding to carriage from the station at which the goods are stopped to the new destination station; (2) If the goods are to be forwarded to a new station situated beyond the original destination station or to a station not on the original route, the carriage charges shall be calculated and recovered separately for carriage to the original destination station or to the station at which the goods are being held and from there to the new destination station;		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	(3) If the goods are to be returned to the dispatching station, the carriage charges shall be calculated and recovered from the consignor for carriage to the station from which the goods will be returned and then separately for carriage from that station to the dispatching station. **§ 13** A fee shall be payable for modification of contracts of carriage. It shall be calculated in accordance with the internal regulations of the railway that modifies the contract of carriage, and shall be collected in accordance with the provisions of article 15. If modification of a contract of carriage leads to a delay in the carriage or delivery of the goods through no fault of the railway, the surcharges, penalties and other expenses incurred during the delay for the storage of the goods, demurrage, etc., with the exception of any penalty for demurrage of wagons on transit railways, shall be calculated in accordance with the internal regulations and tariffs applicable on the railway where the delay occurs. For demurrage of wagons on transit railways as a result of modification of the contract of carriage, the penalty shall be calculated according to the transit tariff applicable to the international carriage in question. Surcharges, penalties for demurrage of wagons and other expenses shall be confirmed by the appropriate documents and recorded in the consignment note for recovery from the consignor, the consignee or the payment agent (freight forwarder, freight agent, etc.), depending on which of them is liable for carriage charges under article 15.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Article 19 **Exercise of the right to dispose of the goods**	**Article 20** **... procedure for modification of the contract of carriage**		**Article O** **Exercise of the right to dispose of the goods**
§ 1 If the consignor or, in the case referred to in Article 18 § 3, the consignee wishes to modify the contract of carriage by giving subsequent orders, he must produce to the carrier the duplicate of the consignment note on which the modifications have to be entered.	**§ 4** **...**	The new legal railway regime could be based on Art. 12, Sections 5–7 of CMR, Art. 19 of CIM and Art. 20 §§ 4–6, 10, 11 of SMGS. In addition, provisions on the right and on procedures to dispose of goods could be brought together and included in the new legal railway regime, similar to Art. 12 of CMR and Art. 20 of SMGS.	**§ 1 If the person who is entitled to dispose of the goods wishes to modify the contract of carriage he has to produce to the carrier the duplicate of the consignment note on which the new instructions have to be entered. He shall compensate the carrier for the costs and the prejudice arising from the carrying out of such instructions, unless the carrier is at fault.**
§ 2 The consignor or, in the case referred to in Article 18 § 3, the consignee must compensate the carrier for the costs and the prejudice arising from the carrying out of subsequent modifications.			**§ 2 The carrier is not obliged to carry out instructions, unless they are possible, lawful and reasonable to require. Instructions must in particular neither interfere with the normal working of the carrier's undertaking nor prejudice the consignors or consignees of other consignments. Any instruction shall not have the effect of splitting the consignment.**
§ 3 The carrying out of the subsequent modifications must be possible, lawful and reasonable to require at the time when the orders reach the person who is to carry them out, and must in particular neither interfere with the normal working of the carrier's undertaking nor prejudice the consignors or consignees of other consignments.			**§ 3 When, by reason of the provisions of §§ 1 and 2, the carrier will not carry out instructions which he receives, he shall immediately notify the person who gave him such instructions.**
§ 4 The subsequent modifications must not have the effect of splitting the consignment.			**§ 4 A carrier who has not carried out properly the instructions given under the provisions of this article shall be liable to the person entitled to make a claim for any loss or damage caused thereby, if the carrier is at fault. If the carrier implements the**
§ 5 When, by reason of the conditions provided for in § 3, the carrier cannot carry out the orders which he receives he shall immediately notify the person from whom the orders emanate.			
§ 6 In the case of fault of the carrier he shall be liable for the consequences of failure to carry out an order or failure to carry it out properly. Nevertheless, any compensation payable shall not exceed that provided for in case of loss of the goods.			

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 7 If the carrier implements the consignor's subsequent modifications without requiring the production of the duplicate of the consignment note, the carrier shall be liable to the consignee for any loss or damage sustained by him if the duplicate has been passed on to the consignee. Nevertheless, any compensation payable shall not exceed that provided for in case of loss of the goods.			**consignor's instructions without requiring the duplicate of the consignment note to be produced, he shall be liable to the consignee for any loss or damage caused thereby, if the duplicate has been passed on to the consignee. Any compensation payable shall not exceed that payable in the event of loss of the goods.**
Article 20 **Circumstances preventing carriage**	**Article 21** **Circumstances preventing carriage and delivery**		**Article P** **Circumstances preventing carriage and delivery**
§ 1 When circumstances prevent the carriage of goods, the carrier shall decide whether it is preferable to carry the goods as a matter of course by modifying the route or whether it is advisable, in the interest of the person entitled, to ask him for instructions while giving him any relevant information available to the carrier. **§ 2** If it is impossible to continue carrying the goods, the carrier shall ask for instructions from the person who has the right to dispose of the goods. If the carrier is unable to obtain instructions within a reasonable time he must take such steps as seem to him to be in the best interests of the person entitled to dispose of the goods.	**§ 1** If at the dispatching station or in the course of the journey circumstances arise that prevent carriage of the goods, the railway shall decide whether to request instructions from the consignor or to transport the goods to the destination station by a modified route. Unless the railway itself is liable, it is entitled to recover the carriage charge applicable to the modified route and to arrange an appropriate extension of the delivery time. **§ 2** If there is no alternative route or if carriage is not possible for other reasons, or if circumstances arise preventing delivery of the goods at the destination station, the consignor shall be immediately notified by telegram through the dispatching station and asked for instructions. In this case, the station shall provide the consignor with all the necessary information available to it.	CMR (Art. 14, 15) and CIM regulate circumstances preventing carriage and delivery in two articles, while the SMGS addresses both circumstances, including consequences within a single Article (Art. 21). CMR (Art. 16) and CIM address the consequences of non-delivery in a separate article. In line with the SMGS, the new legal railway regime could bring together both circumstances preventing carriage and delivery in single provisions. Its consequences could then be addressed, for reasons of clarity, in a separate provision.	**§ 1 If it becomes evident, after the goods have been taken over by the carrier, that carriage or delivery cannot be performed according to the contract, the carrier shall ask for instructions from the person entitled to dispose of the goods or, where circumstances prevent delivery, he shall ask the consignor for instructions.** **§ 2 If the consignee, in accordance with Article O § 3, has given instruction to deliver the goods to another person, § 1 shall apply as if the consignee were the consignor and the other person were the consignee.** **§ 3 If circumstances preventing carriage can be avoided by modifying the route, the carrier shall decide whether a modification shall be made or whether it is in the interest of the person entitled to ask him for instructions.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
			§ 4 If circumstances preventing delivery cease to exist before arrival of instructions from the consignor to the carrier, the goods shall be delivered to the consignee. The consignor shall be notified without delay.
Article 21 **Circumstances preventing delivery** **§ 1** When circumstances prevent delivery, the carrier must without delay inform the consignor and ask him for instructions, save where the consignor has requested, by an entry in the consignment note, that the goods be returned to him as a matter of course in the event of circumstances preventing delivery. **§ 2** When the circumstances preventing delivery cease to exist before arrival of instructions from the consignor to the carrier the goods shall be delivered to the consignee. The consignor must be notified without delay. **§ 3** If the consignee refuses the goods, the consignor shall be entitled to give instructions even if he is unable to produce the duplicate of the consignment note. **§ 4** When the circumstances preventing delivery arise after the consignee has modified the contract of carriage in accordance with Article 18 §§ 3 to 5 the carrier must notify the consignee.	However, the station shall not be obliged to request the consignor for instructions in the event of temporary circumstances caused as specified in article 3, § 1 (3). The consignor may provide instructions in the consignment note to cover the event of circumstances preventing carriage or delivery, under “Consignor’s remarks”. If the railway considers that those instructions cannot be followed, it must request further instructions from the consignor. On receiving by telegram information concerning circumstances preventing carriage or delivery, the dispatching station shall promptly notify the consignor by means of the form provided or according to the procedure prescribed in its internal regulations. The consignor shall record on the reverse of the notification sheet instructions for dealing with the goods, and return the notification sheet to the station or communicate the instructions according to the procedure prescribed in the internal regulations. When returning the notification sheet or communicating instructions according to the procedure prescribed in the internal regulations, the consignor must present the duplicate consignment note (sheet 3 of the consignment note) to the dispatching station for insertion of the relevant consignor’s		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Article 22 **Consequences of circumstances preventing carriage and delivery** § 1 The carrier shall be entitled to recover the costs occasioned by: (a) his request for instructions, (b) the carrying out of instructions received, (c) the fact that instructions requested do not reach him or do not reach him in time, (d) the fact that he has taken a decision in accordance with Article 20 § 1, without having asked for instructions, unless such costs were caused by his fault. The carrier may in particular recover the carriage charge applicable to the route followed and shall be allowed the transit periods applicable to such route. **§ 2** In the cases referred to in Article 20 § 2 and Article 21 § 1 the carrier may immediately unload the goods at the cost of the person entitled. Thereupon the carriage shall be deemed to be at an end. The carrier shall then be in charge of the goods on behalf of the person entitled. He may, however, entrust them to a third party, and shall then be responsible only for the exercise of reasonable care in the choice of such third party. The charges due under the contract of carriage and all other costs shall remain chargeable against the goods. **§ 3** The carrier may proceed to the sale of the goods, without awaiting instructions from the person entitled, if	instructions. If the consignor does not present the duplicate consignment note, the instructions written on the reverse of the notification sheet or communicated according to the procedure prescribed in the internal regulations shall be considered null and void, and the dispatching station shall inform the station where the circumstances have arisen that there are no instructions from the consignor. In this case, the railway on which the goods are delayed shall deal with them in line with its internal regulations. If the dispatching station receives notification of a modification to the route or the consignee's refusal to accept the goods, the consignor may provide instructions even without the duplicate consignment note. The dispatching station shall notify the station where the circumstances have arisen of the consignor's instructions. The charges for notification of the consignor shall be recovered from the consignor by the dispatching railway in accordance with its own internal regulations. If the circumstances that prevent carriage and delivery occur after the consignee has modified the contract of carriage, the railway shall notify the consignee who submitted the declaration of modification of the contract of carriage. The charges for notification of the consignee shall be recovered from the consignee by the dispatching railway in accordance with its own internal regulations. **§ 3** If a consignor who has been informed of circumstances preventing carriage or delivery forwards no instructions, or instructions that cannot be executed, within a period of eight days or, for perishable goods, within a period of four days from the time		**Article Q** **Consequences of circumstances preventing carriage and delivery** **§ 1 The carrier is entitled to reimbursement for the costs occasioned by his request for instructions or the carrying out of instructions or the fact that he has taken a decision in accordance with Article P § 3, unless such costs were caused by his fault. The carrier may in particular recover the carriage charge applicable to the route followed and shall be allowed the transit period applicable to such route.** **§ 2 If the carrier cannot, within a reasonable time, obtain lawful and reasonable instructions, he shall take such measures as seem to be in the best interest of the person entitled to dispose of the goods. He may, for example, return the goods to the consignor or unload them for account of the person entitled. Thereupon the carriage shall be deemed to be at an end. The carrier shall then hold the goods on behalf of the person entitled. He may, however, entrust them to a third party, and in that case he shall not be under any liability except for the exercise of reasonable care in the choice of such third party. The charges due under the contract of carriage and all other costs of the carriage shall remain chargeable against the goods.** **§ 3 The carrier may sell the goods, without awaiting instructions**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
this is justified by the perishable nature or the condition of the goods or if the costs of storage would be out of proportion to the value of the goods. In other cases he may also proceed to the sale of the goods if within a reasonable time he has not received from the person entitled instructions to the contrary which he may reasonably be required to carry out. **§ 4** If the goods have been sold, the proceeds of sale, after deduction of the costs chargeable against the goods, must be placed at the disposal of the person entitled. If the proceeds of sale are less than those costs, the consignor must pay the difference. **§ 5** The procedure in the case of sale shall be determined by the laws and prescriptions in force at, or by the custom of, the place where the goods are situated. **§ 6** If the consignor, in the case of circumstances preventing carriage or delivery, fails to give instructions within a reasonable time and if the circumstances preventing carriage or delivery cannot be eliminated in accordance with §§ 2 and 3, the carrier may return the goods to the consignor or, if it is justified, destroy them, at the cost of the consignor.	that notification is sent from the station at which the circumstances have arisen, the goods shall be dealt with according to the internal regulations of that railway. If perishable goods are likely to spoil, the railway on which circumstances preventing carriage or delivery have arisen shall deal with the goods in accordance with its internal regulations, without waiting for the expiry of the four-day period. **§ 4** If the circumstances preventing carriage cease to exist before instructions are received from the consignor, the station where the circumstances arose shall send the goods to the destination station without waiting for instructions, and shall promptly notify the consignor. **§ 5** If the goods have been sold, the amount raised, less any charges due to the railway in accordance with article 13, § 1, as well as any penalties and expenses related to the sale of the goods, shall be issued to the consignor. If the amount raised from the sale of the goods does not cover those costs, the consignor shall be required to pay the difference. **§ 6** The provisions of §§ 1, 3, 4 and 5 of this article shall also apply to a consignee who modifies the contract of carriage in accordance with article 20. **§ 7** If circumstances arise that prevent carriage or delivery of the goods through the fault of the consignor or the consignee, all expenses incurred due to the resultant delay in carriage or delivery shall be paid to the railway. If circumstances arise that prevent carriage or delivery of the goods through no fault of the consignor or the consignee, all		**from the person entitled, if this is justified by the perishable nature or the condition of the goods or if the costs of storage would be out of proportion to the value of the goods. He may also proceed to the sale of the goods in other cases if within a reasonable time he has not received from the person entitled instructions to the contrary which he may reasonably be required to carry out; in such a case the carrier may destroy unusable goods.** **§ 4 If the goods have been sold, the proceeds of sale, after deduction of the costs chargeable against the goods, shall be placed at the disposal of the person entitled. If the proceeds of sale are less than those costs, the carrier shall be entitled to the difference.** **§ 5 The procedure in the case of sale shall be determined by the law or custom of the place where the goods are situated.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	expenses incurred due to the consignor or the consignee not providing the instructions requested by the railway in respect of the above-mentioned circumstances within the periods set in § 3 of this article, or of those instructions being inexecutable, shall be paid to the railway. If such circumstances arise on the dispatching railway or the destination railway, payment for the expenses shall be calculated in accordance with the internal regulations and tariffs applied by those railways for such carriage. If such circumstances arise on transit railways, payment for the expenses shall be calculated in accordance with the transit tariff applied by the railway concerned for international carriage; if the transit tariff for such cases does not cover payment of such costs, the charges shall be calculated in accordance with the internal regulations and tariffs applied for such carriage by the transit railway concerned. All charges for such expenses shall be recorded in the consignment note for recovery from the consignor, the consignee or the payment agent (freight forwarder, freight agent, etc.), depending on which of them pays for carriage charges under article 15. **§ 8** If the contract of carriage is modified because of circumstances preventing carriage or delivery, the provisions of article 20 shall apply. In such cases, the provisions of article 20, § 9, shall not apply.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Liability			
Article 23 **Basis of liability**	**Article 23** **Limitation of liability**		**Article R** **Basis of liability**
§ 1 The carrier shall be liable for loss or damage resulting from the total or partial loss of, or damage to, the goods between the time of taking over of the goods and the time of delivery and for the loss or damage resulting from the transit period being exceeded, whatever the railway infrastructure used. **§ 2** The carrier shall be relieved of this liability to the extent that the loss or damage or the exceeding of the transit period was caused by the fault of the person entitled, by an order given by the person entitled other than as a result of the fault of the carrier, by an inherent defect in the goods (decay, wastage etc.) or by circumstances which the carrier could not avoid and the consequences of which he was unable to prevent. **§ 3** The carrier shall be relieved of this liability to the extent that the loss or damage arises from the special risks inherent in one or more of the following circumstances: (a) carriage in open wagons pursuant to the General Conditions of Carriage or when it has been expressly agreed and entered in the consignment note; subject to damage sustained by the goods because of atmospheric influences, goods carried in intermodal transport units and in closed road vehicles carried on wagons shall not be considered as being carried in open wagons; if for the carriage of goods in	**§ 1** Under the conditions set forth in this section, the railway is liable for any delay in the delivery of goods and for any damage resulting from total or partial loss, mass shortfall, damage, deterioration or loss of quality of the goods for other reasons between their receipt for carriage and delivery at the destination station or, in the case of reconsignment to countries whose railways are not covered by the Agreement, until registration of carriage in a consignment note under another agreement on direct international rail transport of goods. The railway is liable for the consequences of any loss through its own fault of the accompanying documents attached by the consignor or the customs agency to the consignment note in accordance with article 11, §§ 1 and 3, and listed in the note, as well as for the consequences of any failure on its own part to comply with a declaration of modification of the contract of carriage, filed in accordance with article 20, §§ 2 and 3. In carrying goods under a CIM/SMGS consignment note, the liability of the railway as specified in this section shall commence at the time of receipt of the goods for carriage and shall continue until the CIM/SMGS consignment note is officially date stamped at the station of reconsignment or, in the opposite direction, shall commence when the CIM/SMGS consignment note is officially date stamped at the station of reconsignment and shall continue until delivery at the destination station.	As in CMR (Art. 17), CIM and SMGS provide, irrespective of fault, a contractual liability of the carrier for loss or damage to goods or delay in delivery and allow for specific reasons for relieve of liability of the carrier. The new legal railway regime could take over such provisions, but should not necessarily allow for privileged exemptions of liability (Art. 17, para. 4 and Art. 18, para. 2–5 of CMR; Art.23 § 3, Art. 25 § § 2–3 of CIM; Art. 23 § 9 of SMGS) Further provisions on [absolute] relief of liability as contained in Art. 23 § § 4–5 of SMGS and in Art. 24 of CIM seem to be superfluous.	**§ 1 The carrier who has concluded the contract of carriage (contractual carrier) shall be liable for loss or damage resulting from the total or partial loss of or damage to the goods between the time of taking over of the goods and the time of delivery, as well as for exceeding the transit period. If several carriers have concluded the contract of carriage, they are all contractual carriers and their liability shall be joint and several.** **§ 2 If carriage governed by a single contract is performed by successive carriers, each carrier who is not a contractual carrier, by the very act of taking over of the goods with the consignment note, shall become a party to the contract of carriage and shall assume the obligations arising from the consignment note. (*In such case each carrier shall be responsible in respect of the entire carriage*.)** **§ 3 Where the carrier has entrusted the performance of the carriage, in whole or in part, to a substitute carrier who does not take over the consignment note, Articles X and Y § 2 shall be applicable.** **§ 4 The carrier shall be relieved of this liability to the extent that the loss or damage or the exceeding the**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
open wagons, the consignor uses sheets, the carrier shall assume the same liability as falls to him for carriage in open wagons without sheeting, even in respect of goods which, according to the General Conditions of Carriage, are not carried in open wagons; (b) absence or inadequacy of packaging in the case of goods which by their nature are liable to loss or damage when not packed or when not packed properly; (c) loading of the goods by the consignor or unloading by the consignee; (d) the nature of certain goods which particularly exposes them to total or partial loss or damage, especially through breakage, rust, interior and spontaneous decay, desiccation or wastage; (e) irregular, incorrect or incomplete description or numbering of packages; (f) carriage of live animals; (g) carriage which, pursuant to applicable provisions or agreements made between the consignor and the carrier and entered on the consignment note, must be accompanied by an attendant, if the loss or damage results from a risk which the attendant was intended to avert. **Article 24** **Liability in case of carriage of railway vehicles as goods** **§ 1** In case of carriage of railway vehicles running on their own wheels and consigned as goods, the carrier shall be liable for the loss or damage resulting from the loss of, or damage to, the vehicle or to its removable parts arising between the time of taking over for carriage and the time of delivery and for loss or	**§ 2** In any case, where the railway has liability, compensation paid for damages should not exceed the amount which would have been payable in the case of total loss of the goods. **§ 3** The railway shall not be liable for the total or partial loss of the goods, mass wastage, damage to, deterioration or reduction in quality for other reasons of the goods, if they have occurred for other reasons: (1) As a result of circumstances that the railway could not prevent and the mitigation of which was beyond its control; (2) As a result of goods, containers or packaging materials not being of suitable quality when received for carriage at the dispatching station or as a result of the special natural or physical features of the goods, containers or packaging materials that cause spontaneous combustion or breakage, including breakage or seal failure in glass, plastic, metal, wood, ceramic or other types of containers or packaging materials, rust, internal deterioration or similar consequences; (3) Through the fault of the consignor or consignee or as a result of their requirements, for which the railway cannot be held to account; (4) For reasons related to the loading or unloading of the goods, where carried out by the consignor or the consignee; if the goods were loaded into a wagon by the consignor, the consignor shall record such in the consignment note, under “Loading by”, in accordance with article 9, § 4; if that entry contains no information indicating otherwise, it shall be considered that the consignor loaded the goods;		**transit period was caused by the fault of the person entitled or by an instruction given by the person entitled other than a result of the fault of the carrier or by an inherent defect of the goods or by circumstances which the carrier could not avoid and the consequences of which he was unable to prevent.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
damage resulting from exceeding the transit period, unless he proves that the loss or damage was not caused by his fault. **§ 2** The carrier shall not be liable for loss or damage resulting from the loss of accessories which are not mentioned on both sides of the vehicle or in the inventory which accompanies it.	(5) As a result of carriage in open rolling stock, as permitted for such carriage under the internal regulations in effect on the dispatching railway; (6) As a result of the consignor or the consignee or the designated attendants not complying with the provisions of annex 3, or the attendants not meeting the requirements of these provisions; (7) As a result of the absence of containers or packaging necessary for carriage under article 9, § 1, for which reason the goods have not been properly protected throughout the journey; (8) As a result of defects in the containers or packaging of the goods that could not be detected by the railway on external inspection at the time the goods were received at the dispatching station, for which reason the goods have not been properly protected throughout the journey; (9) As a result of the consignor depositing items not accepted for carriage under an incorrect, inaccurate or incomplete description; (10) As a result of the consignor depositing goods normally accepted for carriage under special conditions, under an incorrect, inaccurate or incomplete description or not in compliance with the provisions of the Agreement; (11) As a result of mass wastage due to the natural properties of the goods, if the loss does not exceed the standards set out in article 24, § 1; (12) As a result of the consignor loading goods in a wagon or container unfit for carriage of such goods, where this should have been assessed in accordance with article 9, § 4, or annex 8, § 11, on visual inspection of the wagon or container; if the goods were		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	loaded into the wagon by the consignor, the consignor shall record that fact in the consignment note, under “Loading by”, in accordance with article 9, § 4; if that entry contains no information indicating otherwise, it shall be considered that the consignor loaded the goods; (13) As a result of non-fulfilment or improper fulfilment of customs or other administrative regulations by a consignor, a consignee or an authorized person. **§ 4** Railways shall not be liable in the following cases: (1) Mass shortfall in piecemeal cargo transported in containers or bound with rope, if the goods have been issued to the consignee in the full number of items, in proper containers or properly bound with ropes and with no sign of external interference with the content that could have caused the mass shortfall; (2) For mass shortfall in piecemeal cargo transported without containers or ropes, if the goods have been issued to the consignee in the full number of items and with no sign of external interference with the content that could have caused the mass shortfall; (3) For mass shortfall or shortfall in the number of items, if the goods were loaded by the consignor onto the wagon, container, road train cargo holder, vehicle, removable motor vehicle cargo holder, full trailer or semi-trailer, and were delivered to the consignee with the intact seals or seal-locks of the consignor or dispatching station, affixed in accordance with the provisions of SMGS, article 9, § 8, and annex 21, § 9, and with no sign of external interference with the content that could have caused the mass shortfall or shortfall in the number of items;		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	(4) For the total or partial loss of removable or spare parts from sealed road trains, removable motor vehicle cargo holders, full trailers, semi-trailers, motor vehicles, tractors or other self-propelled machines, if delivered to the consignee with intact seals or seal-locks affixed by the consignor in accordance with SMGS, annex 7, § 3, and annex 21, § 9, and without damage or any sign of external interference with the content that could have caused the total or partial loss of removable or spare parts. If wagons, containers, road trains, removable motor vehicle cargo holders, full trailers, semi-trailers, motor vehicles and other self-propelled machines are opened for purposes of border control and customs clearance, or for public health, phytosanitary or other types of inspections and, as a result, the original seals or seal-locks of the consignor or dispatching station are removed, they shall be replaced by intact seals of the customs service, or seals or seal-locks of any participating railway affixed in accordance with SMGS, article 9, § 8, annex 7, § 3, and annex 21, § 9. If in the course of the journey, border or customs controls or other types of inspection are conducted on several occasions, the seals or seal-locks of the consignor or the dispatching station shall be replaced by intact seals or seal-locks of the customs authorities or border stations at the time of the control or inspections. The fact that wagons, containers, road trains, removable motor vehicle cargo holders, full trailers, semi-trailers, motor vehicles, tractors or other self-propelled machines have been opened and seals or seal-locks replaced shall be attested by a certificate of border control, customs clearance, public health,		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	phytosanitary or other types of control or inspection on the form in annex 18, compiled by the railway, or a corresponding remark inserted by the railway in the consignment note under "Railway's remarks". The record of opening shall be certified by the signatures of those persons who carried out the control and of a representative of the railway, the official date stamp of the station at which the seals or seal-locks were replaced, and a notation to that effect made in the consignment note certified by the signature of the representative of the railway at the station at which the seals or seal-locks were replaced, together with the official date stamp of the station, as well as the signatures of the persons who carried out the control, if so required under the national laws and regulations of the country where the control or inspection was conducted. The record of opening or notation in the consignment note concerning the opening and replacing of seals or seal-locks attests to the opening of wagons, containers, motor vehicles, tractors or other self-propelled machines, road trains, removable motor vehicle cargo holders, full trailers or semi-trailers for border and customs controls, as well as other types of inspections, but does not record whether the shipment is intact or the condition of the goods. One copy of the record of opening shall be attached to the consignment note and issued to the consignee at the destination station together with the goods and sheets 1 and 5 of the consignment note. For the carriage of goods in accordance with article 2, § 2, from countries whose railways are not covered by the Agreement to		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	countries whose railways are covered by the Agreement, the seals or seal-locks on wagons, containers, road trains, removable motor vehicle cargo holders, full trailers or semi-trailers, under which they arrived at the border entry station of the first railway covered by the Agreement and which concern the previous carriage under a consignment note related to another agreement on direct international goods transport by rail, are considered equivalent to the seals or seal-locks that should be attached by the consignor or station of departure in accordance with SMGS, article 9, § 8, and annex 21, § 9. **§ 5** Railways shall not be liable for failure to comply with the timely delivery of the goods in the following circumstances: (1) In the case of snow, floods, landslides and other natural phenomena for a period of up to 15 days, on the instructions of the national central railway authority; (2) If there are other circumstances that have caused the suspension or restriction of traffic, on the instructions of the government concerned. **§ 6** Information given by the consignor in the consignment note concerning the mass and quantity of goods may serve as evidence against the railway: (1) If the mass was checked by the railway and the information was recorded in the consignment note under “Mass (in kg)” to be inserted by the railway and certified by it in the column for the stamp and signature of the weighing station; (2) If the quantity of goods was checked by the railway and information on the quantity of items was recorded in the		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	consignment note under "Railway's remarks" and certified by an employee's signature and the stamp of the station. This requirement does not apply in the cases provided for in § 4 of this article. **§ 7** In the event of partial loss, mass shortfall, damage, deterioration or reduction in quality of the goods for other reasons, the consignee or the consignor must prove that the damage occurred in the period between receipt for carriage and delivery of the goods, if the formal report referred to in article 18, § 3, was drawn up after delivery. **§ 8** It is the responsibility of the railway to provide evidence that the total or partial loss, mass shortfall, damage to, deterioration or reduction in quality of the goods for other reasons occurred as a result of the circumstances described in § 3, subparagraphs 1 and 3, of this article. **§ 9** If the circumstances of the case show that the total or partial loss, mass shortfall, damage to, deterioration or reduction in quality of the goods for other reasons may have occurred as a result of the circumstances set out in § 3 (2 and 4–13), of this article, it is considered that the damage occurred as a result of those circumstances, unless the consignor or the consignee proves otherwise. This assumption is not valid for the case referred to in § 3 (5) of this article, if whole items are lost. **§ 10** During the carriage of goods on a CIM/SMGS consignment note from countries not covered by the Agreement, if damage or partial loss of goods is noted after the CIM/SMGS consignment note is officially date stamped at the reconsignment point, and		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	the railway that applies SMGS has taken on the consignment without any visible irregularities, it shall be assumed, unless proven otherwise, that the damage or partial loss of cargo occurred during fulfilment of the contract of carriage in the SMGS area. During the carriage of the goods on a CIM/SMGS consignment note from countries covered by the Agreement, if damage or partial loss of goods is noted after the CIM/SMGS consignment note is officially date stamped at the reconsignment point, and the carrier that applies CIM has taken on the consignment without any visible irregularities, it shall be assumed, unless proven otherwise, that the damage or partial loss of cargo took place during the fulfilment of the contract of carriage in the CIM area. This assumption is valid regardless of whether the cargo was reloaded into a wagon of a different track gauge.		
Article 25 **Burden of proof** **§ 1** The burden of proving that the loss, damage or exceeding of the transit period was due to one of the causes specified in Article 23 § 2 shall lie on the carrier. **§ 2** When the carrier establishes that, having regard to the circumstances of a particular case, the loss or damage could have arisen from one or more of the special risks referred to in Article 23 § 3, it shall be presumed that it did so arise. The person entitled shall, however, have the right to prove that the loss or damage was not attributable either wholly or in part to one of those risks.	**Article 23 § 8** **§ 8** It is the responsibility of the railway to provide evidence that the total or partial loss, mass shortfall, damage to, deterioration or reduction in quality of the goods for other reasons occurred as a result of the circumstances described in § 3, subparagraphs 1 and 3, of this article.	Since the burden of proof that lies on the carrier is derived from general rules of evidence, the new legal railway regime may not need to include specific provisions in this regard – in contrast to CMR, CIM and SMGS.	**This provision is not required for the new legal regime**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 3 The presumption according to § 2 shall not apply in the case provided for in Article 23 § 3, letter a) if an abnormally large quantity has been lost or if a package has been lost.			
Article 26 **Successive carriers**	**Article 22** **Joint liability of railways**		**See Article R § 2**
If carriage governed by a single contract is performed by several successive carriers, each carrier, by the very act of taking over the goods with the consignment note, shall become a party to the contract of carriage in accordance with the terms of that document and shall assume the obligations arising therefrom. In such a case each carrier shall be responsible in respect of carriage over the entire route up to delivery.	**§ 1** A railway that accepts goods for carriage under a SMGS consignment note shall be responsible for execution of the contract of carriage for the whole length of the route to the destination station or, on reconsignment of the goods to countries whose railways are not covered by the Agreement, until registration of carriage in a consignment note under another agreement on direct international rail transport of goods; or, in the case of reconsignment of goods from countries that are not covered by the Agreement, after registration of carriage of the goods in a SMGS consignment note.	In Euro-Asian rail transport operation covered by the new legal railway regime several contractual carriers (refer to Art. 3 a) of CIM) provide often carriage successively and operate on different parts of the journey. They then undertake a joint liability for the entire carriage. However, carriage by successive carriers is also still possible (Art. 26 of CIM, Art. 22 § 3 of SMGS and Art. 34 ff of CMR).	
Article 27 **Substitute carrier**		The legally problematic entity of the "substitute carriers" (Art. 27 of CIM only, not in SMGS and CMR) could be dispensed with.	**See Article R § 3**
§ 1 Where the carrier has entrusted the performance of the carriage, in whole or in part, to a substitute carrier, whether or not in pursuance of a right under the contract of carriage to do so, the carrier shall nevertheless remain liable in respect of the entire carriage.	**§ 2** A railway that accepts goods for carriage under a CIM/SMGS consignment note shall be responsible for execution of the contract of carriage from the time of receipt of the goods for carriage until the official date stamp is affixed at the station of reconsignment or, in the other direction, from the moment that the official date stamp is affixed at the station of reconsignment until delivery at the destination station.	The legal entities of the "contractual carrier" and the "successive carrier" could be addressed in the basic rules of liability (i.e. in Article R of the proposed new text proposal).	
§ 2 All the provisions of these Uniform Rules governing the liability of the carrier shall also apply to the liability of the substitute carrier for the carriage performed by him. Articles 36 and 41 shall apply if an action is brought against the servants and any other persons whose services the substitute carrier makes use of for the performance of the carriage.	**§ 3** Each subsequent railway that receives the goods for carriage under the consignment note enters into the contract of carriage and takes on the obligations arising from it.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 3 Any special agreement under which the carrier assumes obligations not imposed by these Uniform Rules or waives rights conferred by these Uniform Rules shall be of no effect in respect of the substitute carrier who has not accepted it expressly and in writing. Whether or not the substitute carrier has accepted it, the carrier shall nevertheless remain bound by the obligations or waivers resulting from such special agreement.			
§ 4 Where and to the extent that both the carrier and the substitute carrier are liable, their liability shall be joint and several.			
§ 5 The aggregate amount of compensation payable by the carrier, the substitute carrier and their servants and other persons whose services they make use of for the performance of the carriage shall not exceed the limits provided for in these Uniform Rules.			
§ 6 This article shall not prejudice rights of recourse which may exist between the carrier and the substitute carrier.			
Article 28 **Presumption of loss or damage in case of reconsignment**	**Article 23 § 10**		**This provision is not required for the new legal regime.**
§ 1 When a consignment consigned in accordance with these Uniform Rules has been reconsigned subject to these same Rules and partial loss or damage has been ascertained after that reconsignment, it shall be presumed that it occurred under the latest contract of carriage if the consignment remained in the charge of the carrier and was reconsigned in the	**§ 10** During the carriage of goods on a CIM/SMGS consignment note from countries not covered by the Agreement, if damage or partial loss of goods is noted after the CIM/SMGS consignment note is officially date stamped at the reconsignment point, and the railway that applies SMGS has taken on the consignment without any visible irregularities, it shall be assumed, unless	Such provisions do not seem to be required in the new legal railway regime.	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
same condition as when it arrived at the place from which it was reconsigned. **§ 2** This presumption shall also apply when the contract of carriage prior to the reconsignment was not subject to these Uniform Rules, if these Rules would have applied in the case of a through consignment from the first place of consignment to the final place of destination. **§ 3** This presumption shall also apply when the contract of carriage prior to the reconsignment was subject to a convention concerning international through carriage of goods by rail comparable with these Uniform Rules, and when this convention contains the same presumption of law in favour of consignments consigned in accordance with these Uniform Rules.	proven otherwise, that the damage or partial loss of cargo occurred during fulfilment of the contract of carriage in the SMGS area. During the carriage of the goods on a CIM/SMGS consignment note from countries covered by the Agreement, if damage or partial loss of goods is noted after the CIM/SMGS consignment note is officially date stamped at the reconsignment point, and the carrier that applies CIM has taken on the consignment without any visible irregularities, it shall be assumed, unless proven otherwise, that the damage or partial loss of cargo took place during the fulfilment of the contract of carriage in the CIM area. This assumption is valid regardless of whether the cargo was reloaded into a wagon of a different track gauge.		
Article 29 **Presumption of loss of the goods** **§ 1** The person entitled may, without being required to furnish further proof, consider the goods as lost when they have not been delivered to the consignee or placed at his disposal within thirty days after the expiry of the transit periods. **§ 2** The person entitled may, on receipt of the payment of compensation for the goods lost, make a written request to be notified without delay should the goods be recovered within one year after the payment of compensation. The carrier shall acknowledge such request in writing.	**Article 17** **Release of cargo. Cargo tracing** **§ 5** If a cargo has not been released to the consignee within 30 days following the delivery date, the consignor or the consignee shall have the right to file with the railway a request for the cargo to be traced. The tracing request shall be filed with the dispatching station by the consignor, or with the destination station by the consignee, using the blank form provided in annex 15 in duplicate, presenting at the same time the duplicate consignment note (sheet 3 of the consignment note) or the original of the consignment note and the arrival note (sheets 1 and 5 of the consignment note) no later than three months after the expiry of the delivery time.	While CIM and CMR (Art. 20) allow the consignee, in case of rediscovered goods, a choice for delivery or compensation, the SMGS requires the consignee to accept the goods during a period of six months. The new legal railway regime might follow the example of CIM and CMR.	**Article S** **Presumption of loss of the goods** **§ 1 The person entitled may, without being required to furnish further proof, consider the goods as lost when they have not been delivered to the consignee or placed at his disposal within ... days after the expiry of the transit period.** **§ 2 The person entitled may, on receipt of compensation for the missing goods, request in writing that he shall be notified immediately should the goods be recovered within one year after the payment of compensation. The carrier shall acknowledge such request in writing.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 3 Within thirty days after receipt of a notification referred to in § 2, the person entitled may require the goods to be delivered to him against payment of the costs resulting from the contract of carriage and against refund of the compensation received, less, where appropriate, costs which may have been included therein. Nevertheless he shall retain his rights to claim compensation for exceeding the transit period provided for in Articles 33 and 35. **§ 4** In the absence of the request referred to in § 2 or of instructions given within the period specified in § 3, or if the goods are recovered more than one year after the payment of compensation, the carrier shall dispose of them in accordance with the laws and prescriptions in force at the place where the goods are situated.	The dispatching or destination station shall confirm receipt of the tracing request with a date stamp and the signature of the station official registering the request on the original and duplicate of the tracing request, and return one copy of the request to the requester. A tracing request does not constitute a claim under article 29. **§ 6** The consignor shall be entitled to consider the cargo as lost if it has not been released to the consignor within 30 days following the delivery date as calculated pursuant to article 14 and the destination station has made an entry reading “Goods not arrived” under “Description of the goods” in the duplicate of the consignment note (sheet 3) or the original of the consignment note and the arrival note (sheets 1 and 5 of the consignment note) presented by the consignee. The entry must be certified with the date stamp of the destination station. Should the cargo arrive at the destination station after the expiry of the delivery time, the consignee is to be notified thereof. The consignee is to receive the cargo, if it arrives not more than six months after the expiry of the delivery time, and reimburse the railway for the amount received from it by way of compensation for the loss of the cargo or reimbursement of freight charges and other shipping-related expenditures. If the compensation for the loss of the cargo and the reimbursement of shipping-related expenditures was paid to the consignor, the latter shall reimburse the railway. In that case the consignee shall retain the right to demand a penalty for late delivery of the cargo from the railway, along with compensation for the		**§ 3 Within thirty days after receipt of such notification, the person entitled may require the goods to be delivered to him against payment of the costs resulting from the contract of carriage and against refund of the compensation received less, where appropriate, costs which may have been included therein. He shall retain his rights to claim compensation for exceeding the transit period provided for in Article V.** **§ 4 In the absence of the request referred to in § 2 or of instructions given within the period specified in § 3, or if the goods are recovered more than one year after the payment of compensation, the carrier shall be entitled to deal with them in accordance with the laws and prescriptions in force at the place where the goods are situated.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	partial loss of the cargo, diminished weight, damage, spoilage of the recovered goods or their deterioration for any other reason.		
Article 30 **Compensation for loss**	**Article 25** **Amount of compensation in case of total or partial loss of cargo**		**Article T** **Compensation for loss**
§ 1 In case of total or partial loss of the goods, the carrier must pay, to the exclusion of all other damages, compensation calculated according to the commodity exchange quotation or, if there is no such quotation, according to the current market price, or if there is neither such quotation nor such price, according to the usual value of goods of the same kind and quality on the day and at the place where the goods were taken over.	**§ 1** If a railway has to compensate a consignor or consignee under the Agreement for total or partial loss of the cargo, the amount of compensation shall be calculated on the basis of the price listed on the invoice of the foreign supplier, or on a docket from that invoice certified in the manner prescribed in the country where the claim is being made.	CMR, CIM and SMGS follow similar principles: Obligation to pay compensation is limited to the value of the lost goods and the paid carriage charges; according to CMR and CIM also in terms of fixed amounts. Compensation for collateral damages will not be refunded.	**§ 1 In case of total or partial loss of the goods, the carrier shall compensate the value of the goods on the day and at the place where they were taken over for carriage. If part of the goods has been delivered, its value which remains to the person entitled shall be deducted from the amount of compensation.**
§ 2 Compensation shall not exceed 17 units of account per kilogramme of gross mass short.	If the value of the cargo that is totally or partially lost cannot be determined by the above procedure, it shall be established by Government assessors.	The new legal railway regime could also be based on these principles. Appropriate compensation limits will need to be determined.	**§ 2 The value of the goods shall be fixed according to the market price or, if there is no such price, according to the usual value of goods of the same kind and quality. If the goods have been sold just before being taken over for carriage the purchase price noted in the seller's invoice, minus carriage charges included therein, shall be considered prima facie to be the market price.**
§ 3 In case of loss of a railway vehicle running on its own wheels and consigned as goods, or of an intermodal transport unit, or of their removable parts, the compensation shall be limited, to the exclusion of all other damages, to the usual value of the vehicle or the intermodal transport unit, or their removable parts, on the day and at the place of loss. If it is impossible to ascertain the day or the place of the loss, the compensation shall be limited to the usual value on the day and at the place where the vehicle has been taken over by the carrier.	In case of the total or partial loss of goods with a value declared in line with article 10, the railway shall pay the consignor or the consignee compensation in the amount of the declared value or a proportion of the declared value corresponding to the part of the cargo lost. In case of the total or partial loss of household effects for which the consignor noted "No value declared" in the consignment note under "Consignor's remarks", the railway shall pay to the consignor or the consignee compensation of six Swiss francs per kilogram of the goods lost.		**§ 3 The carrier shall, in addition, refund the carriage charge, customs duties already paid and other charges paid in respect of the carriage of the goods. If part of the goods has been delivered, § 1, second sentence, shall apply by analogy.**
§ 4 The carrier must, in addition, refund the carriage charge, customs duties	**§ 2** In addition to the compensation provided for in § 1 of this article, the charges, customs duties and fees and other costs for the carriage of the cargo that has been lost or partially lost shall also be refunded, where		**§ 4 In case of loss of an intermodal transport unit or its removable parts, the compensation shall be limited to the usual value of the unit or its removable parts on the**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
already paid and other sums paid in relation to the carriage of the goods lost except excise duties for goods carried under a procedure suspending those duties.	these are not included in the price. **§ 3** Costs and losses to consignors or consignees that do not arise from the contract of carriage will not be reimbursed by the railway.		**day and at the place of loss. If it is impossible to ascertain the day or the place of loss, the compensation shall be limited to the usual value on the day and at the place where the unit has been taken over by the carrier.** **§ 5 No further damages shall be payable.**
Article 31 **Liability for wastage in transit**	**Article 24** **Limitation of liability in case of mass shortfall**		**This provision is not required for the new legal regime.**
§ 1 In respect of goods which, by reason of their nature, are generally subject to wastage in transit by the sole fact of carriage, the carrier shall only be liable to the extent that the wastage exceeds the following allowances, whatever the length of the route: (a) two per cent of the mass for liquid goods or goods consigned in a moist condition; (b) one per cent of the mass for dry goods. **§ 2** The limitation of liability provided for in § 1 may not be invoked if, having regard to the circumstances of a particular case, it is proved that the loss was not due to causes which would justify the allowance. **§ 3** Where several packages are carried under a single consignment note, the wastage in transit shall be calculated separately for each package if its mass on consignment is shown separately on the consignment note or can be ascertained otherwise. **§ 4** In case of total loss of goods or in case of loss of a package, no deduction	**§ 1** In the case of cargo with specific natural properties likely to lead to mass wastage during transport, the railway shall not be liable, regardless of the distance travelled, for such mass shortfall as does not exceed the following limits: (1) 2% of the mass of goods in liquid form or given for carriage as raw (fresh) or wet goods, as well as the following goods: • Manganese and chrome ore; • Copper sulphate; • Magnesium and other raw chemicals in bulk; • Salts; • Fresh fruits; • Fresh vegetables; • Dressed and wet-salted hides and skins; • Tobacco; • Fresh meat, chilled; • Citrus fruits and bananas, fresh berries. (2) 1.5% of the mass of the following goods:	Given the type of goods carried in Euro-Asian rail transport, wastage in transit should not play a major role. As is the case in CMR, the new legal railway regime should therefore not include specific liability provisions for wastage in transit.	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
for wastage in transit shall be made in calculating the compensation. **§ 5** This Article shall not derogate from Articles 23 and 25. **§ 4** In case of total loss of goods or in case of loss of a package, no deduction for wastage in transit shall be made in calculating the compensation. **§ 5** This Article shall not derogate from Articles 23 and 25.	• Firewood, timber, bamboo and charcoal; • Construction materials of mineral origin; • Fats; • Salted and dried fish; • Fertilizers. (3) 1% of the mass of the following goods: • Mineral fuels; • Petroleum coke and coal coke; • Iron ore; • Tree bark; • Greasy wool; • Hops; • Soap; • Root vegetables; • Frozen meat; • Poultry; • Smoked meat products; • Frozen fish; • Seafood; • Frozen poultry; • Sausages and meat products. (4) 0.5% of the mass of all other dry goods prone to mass wastage during transport; (5) Where goods are carried in glass or other types of container with physical properties that include a tendency to fracture and break (art. 23, §. 3 (2)), the standard applied is a loss of 1% of the total. For carriage of the above cargoes when requiring transhipment, in bulk or in tanks, the mass wastage limits listed in subparagraphs 1 to 4 of this paragraph are		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	increased by 0.3 per cent for each transhipment of the consignment. **§ 2** Limitation of liability, as provided for in § 1 of this article, shall not apply if a consignor or a consignee can prove that the mass wastage was not due to reasons related to the special natural properties of the goods. **§ 3.** If a number of items are being transported on a single consignment note, and the mass of each item is specified in the consignment note when the goods are received for carriage, the permitted mass wastage shall be calculated separately for each item. **§ 4** In the event of total loss of the cargo or loss of individual items, no deduction shall be made in calculating the compensation for mass wastage of the items lost.		
Article 32 **Compensation for damage**	**Article 26** **Amount of compensation in case of damage to, deterioration or loss of quality of goods for other reasons**		**Article U** **Compensation for damage**
§ 1 In case of damage to goods, the carrier must pay compensation equivalent to the loss in value of the goods, to the exclusion of all other damages. The amount shall be calculated by applying to the value of the goods defined in accordance with Article 30 the percentage of loss in value noted at the place of destination. **§ 2** The compensation shall not exceed: (a) if the whole consignment has lost value through damage, the amount which would have been payable in case of total loss;	**§ 1** If, in the event of damage to, deterioration or reduction in the quality of the cargo for other reasons, a railway has to compensate a consignor or consignee under the Agreement, the amount of compensation must correspond to the reduction in the value of the goods. **§ 2** In the event of damage, deterioration or reduction in quality for other reasons of goods of a value declared in accordance with article 10, the railway shall pay compensation in an amount corresponding to the proportionate reduction in the value of the goods resulting from the damage to, deterioration or reduction in quality for other reasons, together with compensation in an	The new legal railway regime could be based on the structurally comparable provisions on compensation for damage contained in CIM, SMGS and CMR (Article 25).	**§ 1 In case of damage to goods, the carrier shall compensate the loss in value of the goods. The amount shall be calculated by applying to the value of the goods defined in accordance with Article T § 2 the percentage of loss in value noted at the place of destination. It is presumed that the costs of lowering and repairing the damage correspond to the loss in value.** **§ 2 The carrier shall, in addition, refund the costs provided for in Article T § 3, in the proportion set out in § 1.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
(b) if only part of the consignment has lost value through damage, the amount which would have been payable had that part been lost **§ 3** In case of damage to a railway vehicle running on its own wheels and consigned as goods, or of an intermodal transport unit, or of their removable parts, the compensation shall be limited, to the exclusion of all other damages, to the cost of repair. The compensation shall not exceed the amount payable in case of loss. **§ 4** The carrier must also refund the costs provided for in Article 30 § 4, in the proportion set out in § 1.	amount according to article 25, § 2. **§ 3** The compensation provided for in §§ 1 and 2 of this article shall be determined by the procedure provided for in article 25, §§ 1 and 2, and on the basis of the assessors' reports under article 18, § 7. **§ 4** The compensation provided for in §§ 1 and 2 of this article shall not exceed: (1) The amount of compensation for the total loss of the goods, where due to damage, deterioration or loss of quality for other reasons that has caused depreciation in the entire cargo; (2) The amount of compensation for the loss of the part of the cargo subject to depreciation, where only part of the cargo has suffered damage, deterioration or loss of quality for other reasons that has caused depreciation. **§ 5** Costs and losses to consignors or consignees that do not arise from the contract of carriage will not be reimbursed by the railway.		**§ 3 The compensation shall not exceed:** **(a) the amount payable in the case of total loss, if the whole consignment has lost value through damage;** **(b) the amount payable in the case of loss of the part affected, if only part of the consignment has lost value through damage.** **§ 4 In case of damage to an intermodal transport unit or its removable parts, the compensation shall be limited to the cost of repair. § 3 shall apply by analogy.** **§ 5 No further damages shall be payable.**
Article 33 **Compensation for exceeding the transit period** **§ 1** If loss or damage results from the transit period being exceeded, the carrier must pay compensation not exceeding four times the carriage charge. **§ 2** In case of total loss of the goods, the compensation provided for in § 1 shall not be payable in addition to that provided for in Article 30. **§ 3** In case of partial loss of the goods, the compensation provided for in	**Article 27** **Amount of compensation for delays in delivery** **§ 1** For any delay in delivery of the cargo, the railway shall pay the consignee a penalty, the amount of which is determined on the basis of the carriage charges of the railway on which the delay took place, and the duration of the delay, defined as the delay (in days) compared to the total delivery time, as follows: • 6% of the charges in the case of a delay of not more than one tenth of the total delivery time;	While CIM und SMGS provide for structurally comparable provisions for compensation for exceeding the transit period, they differ however in the compensation limits. This will need to be discussed.	**Article V** **Compensation for exceeding the transit period** **§ 1 In the case of exceeding the transit period, if the claimant proves that damage, including damage to the goods, has resulted therefrom, the carrier shall pay compensation not exceeding (... times) the carriage charges.** **§ 2 Insofar as the goods are lost or have lost value as a result of partial loss, compensation for delay shall not be paid.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 1 shall not exceed four times the carriage charge in respect of that part of the consignment which has not been lost. **§ 4** In case of damage to the goods, not resulting from the transit period being exceeded, the compensation provided for in § 1 shall, where appropriate, be payable in addition to that provided for in Article 32. **§ 5** In no case shall the total of compensation provided for in § 1 together with that provided for in Articles 30 and 32 exceed the compensation which would be payable in case of total loss of the goods. **§ 6** If, in accordance with Article 16 § 1, the transit period has been established by agreement, other forms of compensation than those provided for in § 1 may be so agreed. If, in this case, the transit periods provided for in Article 16 §§ 2 to 4 are exceeded, the person entitled may claim either the compensation provided for in the agreement mentioned above or that provided for in §§ 1 to 5.	• 12% of the charges in the case of a delay of more than one tenth of the total delivery time; • 18% of the charges in the case of a delay of more than two tenths, but not more than three tenths, of the total delivery time; • 24% of the charges in the case of a delay of more than three tenths, but not more than four tenths, of the total delivery time; • 30% of the charges in the case of a delay of more than four tenths of the total delivery time. If the cargo is delayed on one railway and travels more quickly than planned on another, the delay should be determined by offsetting the delivery times against each other. **§ 2** If compensation is paid for total loss of the cargo, a penalty as provided for under § 1 of this article cannot be required. In the event of partial loss of the cargo, a penalty for a delay in delivery, if such has occurred, shall be paid for that part of the cargo not lost. In the event of damage to, deterioration or reduction in quality of goods for other reasons, a penalty for delay in delivery, if such has occurred, shall be added to the amount of compensation provided for under article 26. The amount of the penalty provided for in § 1 of this article, together with the payments specified in articles 25 and 26, may not exceed the overall amount of compensation that would have been payable in the event of the total loss of the cargo.		**§ 3 Insofar as damage to the goods is not the result of delay, the compensation provided for in § 1 shall be payable in addition to that provided for in Article M.** **§ 4 In no case the compensation for delay together with that for partial loss of or damage to goods shall exceed the compensation which would be payable in case of total loss of the goods.** **§ 5 If the transit period has been established by agreement, other forms of compensation than those provided for in § 1 may be so agreed. If, in this case, the transit periods provided for in Article L are exceeded, too, the person entitled may claim either the compensation provided for in the agreement or that provided for in this Article.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Article 34 **Compensation in case of declaration of value**	**Article 10** **Declaration of value of goods and interest in delivery**		**This provision is not required for the new legal regime.**
The consignor and the carrier may agree that the consignor shall declare in the consignment note a value for the goods exceeding the limit provided for in Article 30 § 2. In such a case the amount declared shall be substituted for that limit.	**§ 2** The value of other goods being consigned may be declared at the consignor's discretion.	As in CMR (Art. 23, para. 6 and Art. 24 and 26), CIM and SMGS allow for higher compensation if consignor and carrier agree on a higher value for the goods or a special interest in delivery.	**This provision is not required for the new legal regime.**
Article 35 **Compensation in case of interest in delivery**	**Article 25 § 1, Section 3**	If the new legal railway regime, in line with Art. 5.3 of CIM, provides generally that liability of the carrier could be increased by him on a voluntary basis, special arrangements in this respect do not seem to be not necessary.	
The consignor and the carrier may agree that the consignor may declare, by entering an amount in figures in the consignment note, a special interest in delivery, in case of loss, damage or exceeding of the transit period. In case of a declaration of interest in delivery further compensation for loss or damage proved may be claimed, in addition to the compensation provided for in Articles 30, 32 and 33, up to the amount declared.	In case of the total or partial loss of goods with a value declared in line with article 10, the railway shall pay the consignor or the consignee compensation in the amount of the declared value or a proportion of the declared value corresponding to the part of the cargo lost. **Article 10 § 5** **§ 5** At the time of consignment the consignor may declare an interest in the delivery of the cargo, subject to the agreement of the railways involved in the transport.		
Article 36 **Loss of right to invoke the limits of liability**			**This provision is not required for the new legal regime.**
The limits of liability provided for in Article 15 § 3, Article 19 §§ 6 and 7, Article 30 and Articles 32 to 35 shall not apply if it is proved that the loss or damage results from an act or omission, which the carrier has committed either with intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage would probably result.		As the CMR (Art. 29), the CIM also contains a provision on the loss of the right to invoke the limit of liability in the case of serious fault of the carrier. The SMGS does not contain such a provision, as it generally does not lay down compensation limits in terms of amounts. In view to recent developments to aim at insurmountable compensation limits (see Art. 22, para. 3, sentence 1	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
		of MC and also of the Rotterdam Rules), the new legal railway regime could do without the provision of Art. 36 of CIM provided that compensation limits, in terms of amounts, are sufficiently high or are omitted entirely.	
Article 37 **Conversion and interest**	**Article 28** **Payment of compensation**		**Article W** **Conversion and interest**
§ 1 Where the calculation of the compensation requires the conversion of sums expressed in foreign currency, conversion shall be at the exchange rate applicable on the day and at the place of payment of compensation.	**§ 1** Payment of compensation in accordance with articles 25 and 26 and of the penalties provided for in article 27 shall be made in the currency of the country of the railway making the payments.	CMR, CIM and SMGS contain similar provisions that could be included into the new legal railway regime.	**§ 1 Where the calculation of the compensation requires the conversion of sums expressed in foreign currency, conversion shall be at the exchange rate applicable on the day and at the place of payment of compensation.**
§ 2 The person entitled may claim interest on compensation, calculated at five per cent per annum, from the day of the claim provided for in Article 43 or, if no such claim has been made, from the day on which legal proceedings were instituted.	**§ 2** If the amount is specified in the currency of one country, and the payment is made in another country, the amount shall be converted at the rate of the day and place of payment into the currency of the country of the railway making the payment.		**§ 2 The person entitled may claim interest on compensation, calculated at five per cent per annum, from the day on which the claim was sent in writing to the carrier or, if no such claim has been made, from the day on which legal proceedings were instituted.**
§ 3 If the person entitled does not submit to the carrier, within a reasonable time allotted to him, the supporting documents required for the amount of the claim to be finally settled, no interest shall accrue between the expiry of the time allotted and the actual submission of such documents.			
Article 38 **Liability in respect of rail-sea traffic**			**This provision is not required for the new legal regime.**
§ 1 In rail-sea carriage by the services referred to in Article 24 § 1 of the Convention any Member State may, by requesting that a suitable note be included in the list of services to which these		The inclusion into the new legal railway regime of provisions on “liability in respect of rail-sea traffic”, only provided in CIM, needs to be reviewed.	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Uniform Rules apply, add the following grounds for exemption from liability in their entirety to those provided for in Article 23: (a) fire, if the carrier proves that it was not caused by his act or default, or that of the master, a mariner, the pilot or the carrier's servants; (b) saving or attempting to save life or property at sea; (c) loading of goods on the deck of the ship, if they are so loaded with the consent of the consignor given on the consignment note and are not in wagons; (d) perils, dangers and accidents of the sea or other navigable waters. **§ 2** The carrier may only avail himself of the grounds for exemption referred to in § 1 if he proves that the loss, damage or exceeding the transit period occurred in the course of the journey by sea between the time when the goods were loaded on board the ship and the time when they were unloaded from the ship. **§ 3** When the carrier relies on the grounds for exemption referred to in § 1, he shall nevertheless remain liable if the person entitled proves that the loss, damage or exceeding the transit period is due to the fault of the carrier, the master, a mariner, the pilot or the carrier's servants. **§ 4** Where a sea route is served by several undertakings included in the list of services in accordance with Article 24 § 1 of the Convention, the liability regime applicable to that route must be the same for all those		SMGS addresses these issues only with regard to the utilization of the consignment note in case of carriage via certain rail ferry links (Annex 12.6, Sections 3.1 to 4.2.	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
undertakings. In addition, where those undertakings have been included in the list at the request of several Member States, the adoption of this regime must be the subject of prior agreement between those States. **§ 5** The measures taken in accordance with §§ 1 and 4 shall be notified to the Secretary General. They shall come into force at the earliest at the expiry of a period of thirty days from the day on which the Secretary General notifies them to the other Member States. Consignments already in transit shall not be affected by such measures.			
Article 39 **Liability in case of nuclear incidents**			**This provision is not required for the new legal regime.**
The carrier shall be relieved of liability pursuant to these Uniform Rules for loss or damage caused by a nuclear incident when the operator of a nuclear installation or another person who is substituted for him is liable for the loss or damage pursuant to the laws and prescriptions of a State governing liability in the field of nuclear energy.		Provisions on liability in case of nuclear incidents, only provided in CIM, does not seem to be of much relevance for the new legal railway regime.	
Article 40 **Persons for whom the carrier is liable**			**Article X** **Persons for whom the carrier is liable**
The carrier shall be liable for his servants and other persons whose services he makes use of for the performance of the carriage, when these servants and other persons are acting within the scope of their functions. The managers of the railway infrastructure on which the carriage is performed shall be considered as persons whose services the carrier		As in CMR (Art. 3 and 29, para. 2) and other international agreements, CIM also provides for the liability of the carriers for its agents and servants. Such provisions should also be included in the new legal railway regime. It may also be necessary to clarify that the infrastructure manager, if not	**The carrier shall be liable for his servants and other persons whose services he makes use of for the performance of the carriage, when these servants and other persons are acting within the scope of their functions. The managers of the railway infrastructure on which the carriage is performed shall be**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
makes use of for the performance of the carriage.		legally identical to the carrier, shall be treated as an agent or servant of the carrier.	**considered as persons whose services the carrier makes use of for the performance of the carriage.**
Article 41 **Other actions**	**Article 26 § 5**		**Article Y** **Other actions**
§ 1 In all cases where these Uniform Rules shall apply, any action in respect of liability, on whatever grounds, may be brought against the carrier only subject to the conditions and limitations laid down in these Uniform Rules. **§ 2** The same shall apply to any action brought against the servants or other persons for whom the carrier is liable pursuant to Article 40.	**§ 5** Costs and losses to consignors or consignees that do not arise from the contract of carriage will not be reimbursed by the railway.	CIM and, in substance also SMGS, provide, similar to CMR (Art. 28), MC (Art. 29–30) and other international agreements, that, in case these conventions are applicable, claimants cannot obtain higher compensation under other legislation. For CIM and CMR, these provisions also apply to the staff and agents of the carriers. Similar provisions should also be included in the new legal railway regime.	**§ 1 In all cases where this Convention shall apply, any action in respect of liability, on whatever grounds, may be brought against the carrier only subject to the conditions and limitations laid down in this legal regime.** **§ 2 The same shall apply to any action brought against the servants or other persons for whom the carrier is liable pursuant to Article X.**
Settlement of claims			
Article 42 **Ascertainment of partial loss or damage**	**Article 18** **Formal report**		**Article Z** **Notice of damage**
§ 1 When partial loss or damage is discovered or presumed by the carrier or alleged by the person entitled, the carrier must without delay, and if possible in the presence of the person entitled, draw up a report stating, according to the nature of the loss or damage, the condition of the goods, their mass and, as far as possible, the extent of the loss or damage, its cause and the time of its occurrence. **§ 2** A copy of the report must be supplied free of charge to the person entitled.	**§ 1** Should the railway, in verifying the condition of the cargo, its mass or the number of items, and in checking for the presence of a consignment note while the cargo is being transported or released, discover any of the following, it shall draw up a formal report, including: (1) Total or partial loss of cargo, mass shortfall, damage, spoilage or deterioration for any other reason; (2) Discrepancies between the information in the consignment note and the cargo as regards the description, mass and number of items of cargo, the identification	CIM and SMGS provide, as two separate steps of the settlement of claims, the (compulsory) drawing up of a report by the carrier and a claim by the person entitled (claimant). According to CIM, this claim is optional whereas it is mandatory under SMGS. CMR (Art. 30) and MC (Art. 31) on the other hand require a claim to be made by the consignee. In CMR (Art. 32, para. 2) the optional claim only ensures the suspension of	**§ 1 Where partial loss of or damage to the goods is apparent and the consignee or the consignor fails to notify this on delivery of the goods at the latest, it is presumed that the goods have been delivered in a condition conforming with the contract. The notice must specify the damage sufficiently clearly.** **§ 2 Where partial loss or damage was not apparent, the presumption referred to in § 1 shall also apply if the damage is not notified within seven days after delivery.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 3 Should the person entitled not accept the findings in the report, he may request that the condition and mass of the goods and the cause and amount of the loss or damage be ascertained by an expert appointed either by the parties to the contract of carriage or by a court or tribunal. The procedure to be followed shall be governed by the laws and prescriptions of the State in which such ascertainment takes place.	or numbers of the cargo items, or the name of the consignee and the destination station; (3) Missing sheets of the consignment note for the cargo in question, or absence of the cargo described in the consignment note; (4) Missing or incomplete transport materials belonging to the consignor, as listed in the consignment note. A formal report shall also be drawn up if an unladen wagon, whether privately owned or hired from the railway, is discovered without an accompanying consignment note, or if a consignment note is discovered without the corresponding wagon. Any station discovering one or more of the above irregularities shall draw up a formal report, using the blank form in SMGS, annex 16, for goods being transported on an SMGS consignment note or the blank form in SMGS, annexes 8.1 to 22, for goods being transported on a common CIM/SMGS consignment note. If the form of the formal report is printed on separate sheets of paper, all the sheets shall be numbered, signed by the persons stipulated in paragraph 6 of the present article and certified with the official date stamp of the station; the number of the formal report shall be printed at the top of each sheet. Once completed, the various sheets of such a formal report shall be fastened together. The blank form of the formal report may be printed on copy paper. Notwithstanding the above, formal reports shall only be drawn up if it is established that the above irregularities must have taken place between the time the cargo was consigned and the time it was released to the consignee.	the period of limitation. The new legal railway regime could be based on CMR and MC. But instead of the requirement for drawing up a report for the ascertainment of a loss, the new legal regime could foresee the recording of the damage together with an optional claim to ensure suspension of the period of limitation. It also seems to be appropriate to reduce the extensive procedural and formal requirements under CIM and SMGS.	**§ 3 Claims for delay shall expire if the consignee does not notify the carrier of the delay in delivery within ... days after delivery of the goods.** **§ 4 If loss, damage or delay is notified on delivery, it is sufficient to give notice to the person delivering the goods. After delivery any notice of damage shall be given to the carrier in text form (e.g. E-Mail). Dispatch within the applicable notification period is sufficient.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	The station shall record the establishment of any formal report in the consignment note under “Formal report”.		
	§ 2 If, upon receiving cargo, the consignee discovers any of the irregularities listed in § 1 of the present article without a formal report having been drawn up by the railway to record the matter, the consignee is to request the destination station immediately to draw up such a report.		
	The destination station may refuse to draw up a formal report in the following cases:		
	(1) If it has been established that the irregularity could not have arisen between the time the cargo was consigned and the time it was released to the consignee;		
	(2) If the shortfall in cargo mass is within the standards indicated in § 5 of the present article.		
	§ 3 If the internal regulations in effect on the destination railway allow for a formal report to be drawn up after the cargo has been released to the consignee, the consignee shall have the right to request that the destination station draw up such a report even after the cargo has been released, upon discovery of any of the irregularities listed in § 1 of the present article if the irregularity was of a nature to escape detection by means of a visual inspection at the time that the cargo was released. In such a case the consignee shall make his request to the destination station immediately upon discovering the irregularity, but in any event not later than 72 hours after the cargo was released. The consignee shall not alter the condition of the cargo until the destination station has drawn		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	up the formal report, except as necessary to prevent further aggravation of the irregularity. The consignee shall return to the destination station any seals or sealing/locking mechanisms that the consignee may have removed from wagons, containers, road trains, dismountable automotive cargo boxes, trailers, semi-trailers, motor vehicles, tractors or other unit of mechanized equipment following the release of the cargo. The destination station may refuse to draw up a formal report in the following cases: (1) If the internal regulations in effect on the destination railway do not provide for the possibility of drawing up such a report after the cargo has been released; (2) If the consignee fails to make the request immediately upon discovering the irregularity, or if the request was made more than 72 hours after the cargo was released; (3) If the consignee has altered the condition of the cargo although no such change was called for by the need to prevent aggravation of the irregularity; (4) If it has been established that the irregularity could not have arisen between the time the cargo was consigned and the time it was released to the consignee; (5) If the shortfall in cargo mass is within the standards indicated in § 5 of the present article; (6) If the consignee fails to give the destination station the seals and sealing/locking mechanisms removed from wagons, containers, road trains, dismountable automotive cargo boxes, trailers, semi-trailers, motor vehicles, tractors or other mechanized equipment.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	§ 4 If the destination station, in verifying the consignee's request for a formal report to be drawn up, made in accordance with §§ 2 or 3 of the present article, determines that the request is unfounded, it shall have the right to demand compensation from the consignee for any costs involved in verifying the request and payment of any penalties for which the internal regulations in effect on the destination railway may make provision. **§ 5** If the mass of any cargo mentioned in article 24, § 1, that, due to its particular natural properties, is subject to mass wastage while being transported, is checked en route or at the destination station and is found to be less than the mass entered in the consignment note, a formal report on wastage shall be drawn up only if the shortfall exceeds the standard stipulated in article 24, § 1. If the shortfall is less than the standard stipulated therein, no formal report shall be drawn up. In that case the information about the measured cargo mass shall be recorded in the consignment note under "Railway endorsements". If the mass of any cargo that, due to its particular natural properties, is not subject to mass wastage while being transported, is checked en route or at the destination station and is found to be less than the mass entered in the consignment note, a formal report on wastage shall be drawn up only if the shortfall is greater than 0.2%. If the mass of the cargo as measured during the verification differs from the mass recorded in the consignment note by 0.2% or less, the figure in the consignment note shall be deemed to be the correct mass. The same procedure shall be used to record any excess cargo mass measured in the course of verification.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	§ 6 Formal reports shall be signed by the responsible officials of the station stipulated in the blank form in SMGS, annexes 16 or 8.1 to 22. Formal reports drawn up at the destination station shall also be signed by the consignee or his authorized representative for the reception of cargo. If the consignee does not agree with any details entered in the formal report, he may record his own observations concerning those details, if that is permitted under the internal regulations in effect on the destination railway. **§ 7** To determine the origin and extent of the loss of cargo, mass wastage, or any damage, spoilage or deterioration of any origin whatsoever, and to assess the extent of the damages, a technical investigation may be conducted in accordance with the domestic laws and regulations of the destination country. **§ 8** One copy of the formal report shall be given to the consignee in accordance with the internal regulations in effect on the destination railway. **§ 9** The provisions of §§ 2–8 of the present article, relating to the consignee, shall apply to the consignor if the cargo is being returned to the consignor pursuant to article 20, § 2, paragraph 1, or if it is being forwarded to a third party and is being released to that party in accordance with the internal regulations stipulated in article 21, § 3.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Article 43 **Claims** **§ 1** Claims relating to the contract of carriage must be addressed in writing to the carrier against whom an action may be brought. **§ 2** A claim may be made by persons who have the right to bring an action against the carrier. **§ 3** To make the claim the consignor must produce the duplicate of the consignment note. Failing this he must produce an authorisation from the consignee or furnish proof that the consignee has refused to accept the goods. **§ 4** To make the claim the consignee must produce the consignment note if it has been handed over to him. **§ 5** The consignment note, the duplicate and any other documents which the person entitled thinks fit to submit with the claim must be produced either in the original or as copies, the copies, where appropriate, duly certified if the carrier so requests. **§ 6** On settlement of the claim the carrier may require the production, in the original form, of the consignment note, the duplicate or the cash on delivery voucher so that they may be endorsed to the effect that settlement has been made.	**Article 29** **Claims** **§ 1** The consignor and the consignee are entitled to make claims based on the contract of carriage. **§ 2** Claims must be submitted in writing, with the appropriate supporting documentation and indicating the amount of compensation, by the consignor to the dispatching railway or by the consignee to the destination railway. Claims shall be made for each consignment individually with the following exceptions: (1) Claims for the reimbursement of overcharges for freight. Such claims may be made for several consignments; (2) Cases when multiple dispatches are covered by a single formal report. In such cases, a claim shall be submitted in respect of all the consignments specified in the formal report. **§ 3** Claims for reimbursement of amounts paid under the contract of carriage may be submitted by the person who made the payment, and only to the railway that collected such amounts. **§ 4** Claims related to a single consignment note, with the exception of claims for non-fulfilment of the safe carriage of goods belonging to a private person, submitted in the case of total or partial loss, mass wastage, damage, deterioration or loss of quality of the goods for other reasons, for an amount of up to 23 Swiss francs, inclusive, are not allowed and may not be submitted. If such a claim is submitted for an amount of more than 23 Swiss francs but, on consideration, is found to concern an amount		**This provision is not required for the new legal regime.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	of less than 23 Swiss francs, inclusive, such compensation shall not be paid to the claimant. Claims related to a single consignment note, submitted in the case of total or partial loss, mass wastage, damage, deterioration or loss of quality for other reasons of goods belonging to a private individual, for an amount of up to 5 Swiss francs, inclusive, are not allowed and may not be submitted. If such a claim is submitted for an amount of more than 5 Swiss francs but, on consideration, is found to concern an amount of less than 5 Swiss francs, inclusive, such compensation shall not be paid to the claimant. Claims related to a single consignment note submitted in the case of delay in delivery of cargo or overcharges on carriage charges for an amount of up to 5 Swiss francs, inclusive, are not allowed and may not be submitted. If such a claim is submitted for an amount of more than 5 Swiss francs but, on consideration, is found to concern an amount of less than 5 Swiss francs, inclusive, such compensation shall not be paid to the claimant. **§ 5** Where a claim is submitted on behalf of the consignor or the consignee by an authorized representative, the right to submit the claim must be confirmed by a power of attorney from the consignor or the consignee. The power of attorney must comply with national laws and regulations in the country of the railway to which the claim is addressed. The power of attorney shall be retained by the railway to which the claim is addressed.		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	§ 6 The claim shall be submitted for consideration by the competent body of the railway, as specified in annex 19. Information on any modifications or amendments to that annex shall be sent to the OSJD Committee and to the railways covered by the Agreement indicating the date of the modifications and amendments such as to ensure that the information is received by the OSJD Committee and all railways covered by the Agreement no later than 45 days prior to their entry into force. In such a case, the provisions of article 37 shall not apply. Modifications and amendments shall be published by the railways in accordance with their internal regulations. **§ 7** Claims shall be submitted to a railway as follows: (1) In the event of the total loss of the cargo: • By the consignor, subject to presentation of the duplicate consignment note (sheet 3 of the consignment note); • By the consignee, subject to presentation of the duplicate consignment note (sheet 3 of the consignment note) or the consignment note and the notification of arrival of the goods (sheets 1 and 5 of the consignment note). The duplicate consignment note or the original consignment note and the notification of arrival of the goods must contain a notation concerning the non-arrival of the goods, in accordance with article 17, § 6, certified by the official date stamp of the destination station; (2) In the case of partial loss, damage, deterioration or reduction in the quality of the		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	goods for other reasons: • By the consignor; or • By the consignee; Subject to presentation of the original consignment note and the notification of arrival of the goods (sheets 1 and 5 of the consignment note) and the formal report issued to the consignor by the railway at the destination station; (3) In the event of a delay in delivery: • By the consignee, subject to presentation of the original consignment note and the notification of arrival of the goods (sheets 1 and 5 of the consignment note), together with the claim form for delay in the delivery of cargo contained in annex 20, in two copies; (4) In the event of overcharges on carriage charges: • By the consignor, for the amounts paid for carriage, subject to presentation of the duplicate consignment note (sheet 3 of the consignment note) or other document in accordance with the internal regulations of the dispatching railway; • By the consignee, for the amounts paid for carriage, subject to presentation of the consignment note and the notification of arrival of the goods (sheets 1 and 5 of the consignment note). The documents indicated in subparagraphs 1 to 4 of this paragraph, which are issued by the railway to the consignor or the consignee, must be presented by the claimant to the railway in the originals only, not in copies. If the documents specified in subparagraphs 1 to 4 of this paragraph are lost during carriage,		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	the consignee may submit a claim on the basis of replacement documents together with the formal report drawn up in accordance with article 18, § 1 (3). Claims submitted in accordance with subparagraphs 1 and 2 of this paragraph must be accompanied, in addition to the aforementioned documents, by an invoice from the foreign supplier or other documents, as provided for in articles 25 and 26, and supporting evidence of the value of the goods or reduction in their value and, if necessary, other documents supporting the claim (specification of the contents of the consignment or the part thereof related to the claim, packing lists, assessors' reports, etc.). Claims submitted in accordance with subparagraphs 1 and 2 of this paragraph by an authorized representative on behalf of the consignor or the consignee should be accompanied by a power of attorney from the consignor or the consignee, in accordance with § 5 of this article. If the written claim submitted to the railway is not accompanied by all of the above-mentioned documents, or the documents referred to in subparagraphs 1 to 4 of this paragraph are submitted as copies, such incomplete or incorrect claims shall be returned to the claimant by the railway within 15 days of the day of receipt by the railway authority, in accordance with annex 19 to the Agreement, with a note to the effect that the documents that are missing or have been submitted as copies. In such cases, there is no suspension of the limitation period as provided for under article 31, § 3. If the railway returns such incomplete or incorrect claims after the 15-day period has expired,		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	the period of limitation shall be suspended from the day after it expires until the day on which the claimant receives the incomplete or incorrect claim. Return by the railway of such an application does not amount to a rejection of the claim in the terms of article 30, § 2, and does not entitle the claimant to bring action in court against the railway. **§ 8** The railway must, within 180 days of the date of submission of the claim, as attested by the postmark at the point of sending or a receipt from the railway if the claim is submitted directly, consider the claim, respond to the claimant and, if it accepts the claim either fully or partially, pay the amount calculated. **§ 9** Where, on delivery of goods of identical description and quality, shipped from a single consignor to a single consignee, that have been transhipped at a border station, some wagons contain too few goods and others too many, the excess shall be credited against the shortfalls in considering any claims. **§ 10** In carriage of goods under the rules set out in article 2, § 2, to countries whose railways are not covered by this Agreement, from countries whose railways are covered by this Agreement, but are not parties to international railway agreements with the countries to which the goods are being sent, claims shall be submitted by the consignee directly to the destination railway or other railways not covered by this Agreement, if the problem has occurred on those railways. Claims in respect of the carriage of goods to countries whose railways are covered by this Agreement from countries whose railways are not covered by this Agreement, also under		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	the rules set out in article 2, § 2, shall be submitted by the consignee directly to the destination railway. After considering claims concerning the liability of railways covered by the Agreement, the railway shall notify the claimant of the outcome. If it transpires that part or all of the claim concerns the liability of a railway that is not covered by the Agreement, the claim shall be rejected in full or in the relevant part. Any documents submitted with the claims, including those under a contract of carriage related to a different transport law, shall be returned to the claimant to be sent directly to the consignor specified in the consignment note, who shall then settle the claim with the railways that are covered by the other transport law. **§ 11** When informing a claimant of the partial or complete rejection of a claim, the railway must inform him or her of the basis for the rejection and, at the same time, return the documents submitted with the claim. **§ 12** If a railway recognizes a claim for the full amount, the railway settling the claim shall act in accordance with its internal regulations in respect of the documents submitted.		
Article 44 **Persons who may bring an action against the carrier**	**Article 30** **Actions under the contract of carriage**		**Article AA** **Right to bring an action against the carrier**
§ 1 Subject to §§ 3 and 4 actions based on the contract of carriage may be brought: (a) by the consignor, until such time as the consignee has 1. taken possession of the consignment note,	**§ 1** A person entitled to submit a claim to the railway is also entitled to bring proceedings in court based on the contract of carriage. This may be done only after a claim has been submitted in accordance with article 29.	CIM and SMGS regulate who, on the basis of the contract of carriage, could take action (ability to sue), against whom action may be levied (capacity to be sued) and where should be the venue of legal action (jurisdiction).	**§ 1 The consignor may bring an action as long as he has the right to dispose of the goods in accordance with Article N or if there are circumstances preventing delivery.** **§ 2 The consignee may bring an action during the time he has the**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
2. accepted the goods, or 3. asserted his rights pursuant to Article 17 § 3 or Article 18 § 3; (b) by the consignee, from the time when he has 1. taken possession of the consignment note, 2. accepted the goods, or 3. asserted his rights pursuant to Article 17 § 3 or Article 18 § 3.		SMGS provides fewer details in this respect than CIM. CMR (Art. 31) and MC (Art. 33) primarily regulate the issues of jurisdiction and capacity to be sued (Art. 36 of CMR; Art. 36 para.3 and Art. 45–46 of MC).	**right to dispose of the goods in accordance with Article N.** **§ 3 An action for the recovery of a sum paid pursuant to the contract of carriage may only be brought by the person who made the payment.**
§ 2 The right of the consignee to bring an action shall be extinguished from the time when the person designated by the consignee in accordance with Article 18 § 5 has taken possession of the consignment note, accepted the goods or asserted his rights pursuant to Article 17 § 3. **§ 3** An action for the recovery of a sum paid pursuant to the contract of carriage may only be brought by the person who made the payment. **§ 4** An action in respect of cash on delivery payments may only be brought by the consignor. **§ 5** In order to bring an action the consignor must produce the duplicate of the consignment note. Failing this he must produce an authorisation from the consignee or furnish proof that the consignee has refused to accept the goods. If necessary, the consignor must prove the absence or the loss of the consignment note. **§ 6** In order to bring an action the consignee must produce the consignment note if it has been handed over to him.		Euro-Asian rail transport is often carried out by several carriers. Therefore, it seems advisable to also address in the new legal railway regime the issues of jurisdiction and capacity to be sued. Furthermore, due to the often large distances between the country of departure and the country of destination it seems also appropriate to regulate the ability to sue, either the consignor or the consignee (see. Art. 44, paras. 1–2 of CIM).	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Article 45 **Carriers against whom an action might be brought**			**Article BB** **Carriers against whom an action might be brought**
§ 1 Subject to §§ 3 and 4 actions based on the contract of carriage may be brought only against the first carrier, the last carrier or the carrier having performed the part of the carriage on which the event giving rise to the proceedings occurred.	**§ 2** Legal action may be brought by a person so entitled, but only against the railway to which the claim was submitted, and only if the latter did not respect the time limit for consideration of the claim specified under article 29, § 8, or if it informed the complainant during that period that the claim was rejected in full or in part.		**§ 1 Actions based on the contract of carriage may be brought against the contractual carrier or against one of several contractual carriers or against the carrier who has delivered the goods or against the carrier having performed the part of the carriage on which the event giving rise to the proceedings occurred.**
§ 2 When, in the case of carriage performed by successive carriers, the carrier who must deliver the goods is entered with his consent on the consignment note, an action may be brought against him in accordance with § 1 even if he has received neither the goods nor the consignment note.			**§ 2 An action for the recovery of a sum paid pursuant to the contract of carriage may be brought against the carrier who has collected that sum or against the carrier on whose behalf it was collected.**
§ 3 An action for the recovery of a sum paid pursuant to the contract of carriage may be brought against the carrier who has collected that sum or against the carrier on whose behalf it was collected.			**§ 3 An action may be brought against another carrier when instituted by way of counter-claim or by way of exception in proceedings relating to a principal claim based on the same contract of carriage.**
§ 4 An action in respect of cash on delivery payments may be brought only against the carrier who has taken over the goods at the place of consignment.			**§ 4 If the plaintiff has a choice between several carriers, his right to choose shall be extinguished as soon as he brings an action against any one of them.**
§ 5 An action may be brought against a carrier other than those specified in §§ 1 to 4 when instituted by way of counter-claim or by way of exception in proceedings relating to a principal claim based on the same contract of carriage.			
§ 6 To the extent that these Uniform Rules apply to the substitute carrier, an action may also be brought against him.			

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 7 If the plaintiff has a choice between several carriers, his right to choose shall be extinguished as soon as he brings an action against any one of them; this shall also apply if the plaintiff has a choice between one or more carriers and a substitute carrier.			
Article 46 **Forum**			**Article CC** **Forum**
§ 1 Actions based on these Uniform Rules may be brought before the courts or tribunals of Member States designated by agreement between the parties or before the courts or tribunals of a State on whose territory: (a) the defendant has his domicile or habitual residence, his principal place of business or the branch or agency which concluded the contract of carriage, or (b) the place where the goods were taken over by the carrier or the place designated for delivery is situated. Other courts or tribunals may not be seized.	**§ 3** Action may be brought only in the appropriate court in the country of the railway to which the claim was submitted.		**§ 1 In legal proceedings arising from carriage under this legal regime, the plaintiff may bring an action in the courts or tribunals of Contracting States designated by agreement between the parties or in the courts or tribunals of a State on whose territory:** **(a) the defendant has his domicile or habitual residence, his principal place of business or the branch or agency which concluded the contract of carriage, or** **(b) the place where the goods were taken over by the carrier or the place designated for delivery is situated.** **Other courts or tribunals may not be seized.**
§ 2 Where an action based on these Uniform Rules is pending before a court or tribunal competent pursuant to § 1, or where in such litigation a judgment has been delivered by such a court or tribunal, no new action may be brought between the same parties on the same grounds unless the judgment of the court or tribunal before which the first action was brought is not enforceable in the State in which the new action is brought.			**§ 2 Where an action based on this legal regime is pending before a court or tribunal competent pursuant to § 1, or where in such litigation a judgement has been delivered by such a court or tribunal, no new action may be brought between the same parties on the same grounds unless the judgement of the court or tribunal before which the first action was**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
			brought is not enforceable in the State in which the new action is brought.
Article 11 of COTIF **Security for costs**			
Security for costs cannot be required in proceedings founded on the CIV Uniform Rules, the CIM Uniform Rules, the CUV Uniform Rules or the CUI Uniform Rules.		In accordance with Article 31, paras. 3–5 of CMR, it could also be suitable to include provisions as contained in Article 12, paras.1–2 and Article 11 of COTIF in the new legal railway regime.	**§ 3 In proceedings arising from carriage under this Convention security for costs cannot be required from nationalists of Contracting States resident or having their place of business in one of those states.**
Article 12 of COTIF **Execution of judgements. Attachment**			**Article DD** **Execution of judgements. Attachment**
§ 1 Judgments pronounced by the competent court or tribunal pursuant to the provisions of the Convention after trial or by default shall, when they have become enforceable under the law applied by that court or tribunal, become enforceable in each of the other Member States on completion of the formalities required in the State where enforcement is to take place. The merits of the case shall not be subject to review. These provisions shall apply also to judicial settlements.			**§ 1 When a judgement entered by a court or tribunal of a Contracting State in any such action as is referred to in Article CC has become enforceable in that State, it shall also become enforceable in each of the other Contracting States, as soon as the formalities required in the State concerned have been complied with. These formalities shall not permit the merits of the case to be re-opened. These provisions shall also apply to judgements after trial, judgement by default and settlements confirmed by an order of the court, but shall not apply to interim judgements or to awards of damages, in addition to costs against a plaintiff who wholly or partly fails in his action.**
§ 2 § 1 shall apply neither to judgments which are provisionally enforceable, nor to awards of damages in addition to costs against a plaintiff who fails in his action.			

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 3 Debts arising from a transport operation subject to the CIV Uniform Rules or the CIM Uniform Rules, owed to one transport undertaking by another transport undertaking not under the jurisdiction of the same Member State, may only be attached under a judgment given by the judicial authority of the Member State which has jurisdiction over the undertaking entitled to payment of the debt sought to be attached.			**§ 2 Debts arising from a transport operation subject to this legal regime, owed to one carrier by another carrier who is not under the jurisdiction of the same Contracting State, may only be attached under a judgement given by the judicial authority of the Contracting State which has jurisdiction over the carrier entitled to payment of the debt sought to be attached.**
§ 4 Debts arising from a contract subject to the CUV Uniform Rules or the CUI Uniform Rules may only be attached under a judgment given by the judicial authority of the Member State which has jurisdiction over the undertaking entitled to payment of the debts sought to be attached.			
§ 5 Railway vehicles may only be seized on a territory other than that of the Member State in which the keeper has its registered office, under a judgment given by the judicial authority of that State. The term "keeper" means the person who, being the owner or having the right to dispose of it, exploits the railway vehicle economically in a permanent manner as a means of transport.		**A similar provision as in Article 12, para. 3, of COTIF may be included in the new legal railway regime which would not readily allow attaching or making a seizure for the debts of one carrier against another.**	**§ 3 Railway vehicles used to perform a transport operation subject to this legal regime may be seized on a territory other than that of the Contracting State in which the keeper has its registered office, only under a judgement given by the judicial authority of that State. The term "keeper" means the person or entity who, being the owner or having the right to use it, exploits the vehicle economically in a permanent manner as a means of transport and is registered as such in an official vehicle register if it is installed.**
Article 47 **Extinction of right of action**	**Article 30 § 1, Sentence 2**		**This provision is not required for the new legal regime.**
§ 1 Acceptance of the goods by the person entitled shall extinguish all rights of action against the carrier arising from	**§ 1** A person entitled to submit a claim to the railway is also entitled to bring proceedings in court based on the contract of	CIM, SMGS and MC (Art. 31, para. 4) foresee the extinction of the right of action in certain cases. CMR,	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
the contract of carriage in case of partial loss, damage or exceeding of the transit period. **§ 2** Nevertheless, the right of action shall not be extinguished: (a) in case of partial loss or damage, if 1. the loss or damage was ascertained in accordance with Article 42 before the acceptance of the goods by the person entitled; 2. the ascertainment which should have been carried out in accordance with Article 42 was omitted solely through the fault of the carrier; (b) in case of loss or damage which is not apparent whose existence is ascertained after acceptance of the goods by the person entitled, if he: 1. asks for ascertainment in accordance with Article 42 immediately after discovery of the loss or damage and not later than seven days after the acceptance of the goods, and 2. in addition, proves that the loss or damage occurred between the time of taking over and the time of delivery; (c) in cases where the transit period has been exceeded, if the person entitled has, within sixty days, asserted his rights against one of the carriers referred to in Article 45 § 1; (d) if the person entitled proves that the loss or damage results from an act or omission, done with intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage would probably result.	carriage. This may be done only after a claim has been submitted in accordance with article 29.	however, only allows a period of limitation (Art. 32). It may be considered to follow the example of CMR and to allow in the new legal railway regime also only a period of limitation.	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 3 If the goods have been reconsigned in accordance with Article 28 rights of action in case of partial loss or in case of damage, arising from one of the previous contracts of carriage, shall be extinguished as if there had been only a single contract of carriage.			
Article 48 **Limitation of actions**	**Article 31** **Limitation period for claims and actions**		**Article EE** **Limitation of actions**
§ 1 The period of limitation for an action arising from the contract of carriage shall be one year. Nevertheless, the period of limitation shall be two years in the case of an action: (a) to recover a cash on delivery payment collected by the carrier from the consignee; (b) to recover the proceeds of a sale effected by the carrier; (c) for loss or damage resulting from an act or omission done with intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage would probably result; (d) based on one of the contracts of carriage prior to the reconsignment in the case provided for in Article 28.	**§ 1** Claims and legal action brought by the consignor or the consignee against railways under the contract of carriage, as well as demands and actions by railways against the consignor or the consignee concerning the payment of carriage charges or penalties, or compensation for damages, may be brought within a period of nine months, with the exception of claims and actions for delays in delivery, in which case a period of two months applies.	CIM, SMGS and CMR (Art. 32) contain similar provisions on which the new legal railway regime could be based. However, the periods of limitation are different and a suitable solution needs to be found.	**§ 1 The period of limitation for an action arising from carriage under this legal regime shall be … year / months. The period of limitation shall begin to run:** **(a) in the case of partial loss, damage or delay in delivery, on expiry of the date of delivery of the goods;** **(b) in the case of total loss, from the thirtieth day after expiry of the transit period;** **(c) in all other cases, on expiry of the date when the right of action may be exercised.**
§ 2 The period of limitation shall run for actions: (a) for compensation for total loss, from the thirtieth day after expiry of the transit period; (b) for compensation for partial loss, damage or exceeding of the transit period, from the day when delivery took place; (c) in all other cases, from the day when the right of action may be exercised;	**§ 2** The dates specified in § 1 of this article shall be calculated as follows: (1) For claims for compensation for partial loss of the cargo, mass shortfall, damage, deterioration or loss of quality of goods for other reasons, or for delays in delivery: from the date of delivery to the consignee; (2) For claims for compensation for total loss of the cargo: from the thirtieth day after the expiry of the delivery time, calculated in accordance with article 14; (3) For claims for additional payment or the reimbursement of carriage charges, surcharges or penalties, or claims related to the correction of calculations due to the incorrect application of tariffs, as well as errors in calculating payments: from the date		

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
(d) The day indicated for the commencement of the period of limitation shall not be included in the period.	of payment or, if the payment has not been made, from the date of delivery; (4) For all other claims and demands:		
§ 3 The period of limitation shall be suspended by a claim in writing in accordance with Article 43 until the day that the carrier rejects the claim by notification in writing and returns the documents submitted with it. If part of the claim is admitted, the period of limitation shall start to run again in respect of the part of the claim still in dispute. The burden of proof of receipt of the claim or of the reply and of the return of the documents shall lie on the party who relies on those facts. The period of limitation shall not be suspended by further claims having the same object.	from the date on which the circumstances that gave rise to such claims and demands were ascertained. The starting date of the limitation period is not included. **§ 3** Presentation by the consignor or the consignee to the railway of a written claim under article 29 shall suspend the period of limitation provided for in § 1 of this article. The period of limitation runs from the day that the railway informs the claimant of the full or partial rejection of the claim; the day of rejection is considered to be the date shown on the postmark at the place of sending, or the day on which the claimant confirms receipt of the information. If no answer is received to a claim, the period of limitation shall resume after expiry of the period set in article 29, § 8. Responsibility for presenting proof that a claim has been sent to a railway or that a response to a claim has been sent, or that documents or an incomplete claim have been returned, in accordance with article 29, § 7, lies with the party making reference to those facts. Repeat claims containing demands that have been submitted previously do not suspend the limitation period provided for in § 1 of this article.		**§ 2 A written claim to a carrier who may have an action brought against him in accordance with Article BB shall suspend the period of limitation until the day the carrier rejects the claim by notification in writing. If part of the claim is admitted, the period of limitation shall start to run again in respect of the part of the claim still in dispute. The burden of proof of the receipt of the claim or of the reply shall rest with the party relying on these facts. The period of limitation shall not be suspended by further claims having the same object.**
§ 4 A right of action which has become time-barred may not be exercised further, even by way of counter-claim or relied upon by way of exception.	**§ 4** Claims and demands in respect of which the limitation period has expired may not also be submitted as actions.		**§ 3 A right of action which has become time-barred may not be exercised further, even by way of counter-claim or exception.**
§ 5 Otherwise, the suspension and interruption of periods of limitation shall be governed by national law.			**§ 4 Otherwise, the suspension and interruption of the period of limitation shall be governed by national law.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Article 28, para. 2 of COTIF	**Article 33 § 6**		**Article FF** **Arbitration**
§ 2 Other disputes arising from the interpretation or application of the Convention and of other conventions elaborated by the Organisation in accordance with Article 2 § 2, if not settled amicably or brought before the ordinary courts or tribunals may, by agreement between the parties concerned, be referred to an Arbitration Tribunal. Articles 29 to 32 shall apply to the composition of the Arbitration Tribunal and the arbitration procedure.	**§ 6** Demands for compensation that give rise to disputes between railways shall, on the request of an interested party, be subject to review by the OSJD Committee. The Committee's decision in respect of such demands shall be final.	COTIF and SMGS contain different rules for out-of-court dispute resolution. According to COTIF/CIM, the parties to the contract of carriage or the carriers may agree among themselves to an arbitration procedure. According to SMGS, a dispute between carriers on the right of recourse could be unilaterally submitted to the OSJD Committee for final decision. Similar to CMR (Art. 33) and MC (Art. 34), the new legal railway regime could stipulate that, in the contract of carriage or by written agreement among the parties to the contract, an arbitration procedure could be foreseen based on the provisions of the new legal regime.	**§ 1 The contract of carriage or a written agreement between its parties may, with reference to disputes subject to this legal regime, contain a clause conferring competence on an arbitration tribunal, if the clause provides that the tribunal shall apply this Convention.** **§ 2 The arbitration procedure shall, at the option of the claimant, take place within one of the forums referred to in Article CC. The parties shall freely determine the composition of the arbitration tribunal and the arbitration procedure.**
Relationship of Carriers			
Article 49 **Settlement of accounts**	**Article 32** **Transactions between railways**		**Article GG** **Settlement of accounts**
§ 1 Any carrier who has collected or ought to have collected, either at departure or on arrival, charges or other costs arising out of the contract of carriage must pay to the carriers concerned their respective shares. The methods of payment shall be fixed by agreement between the carriers. **§ 2** Article 12 shall also apply to the relations between successive carriers.	**§ 1** Each railway that charges for the dispatch or the delivery of cargo under a contract of carriage must pay to any railway that participates in the transport of that cargo the share of the carriage charges due. **§ 2** The dispatching railway shall be responsible to the other railways for the carriage charges owed to them that it has not collected from the consignor, if, according to the information in the consignment note, they were assumed or should have been assumed by the consignor under the consignment note in accordance with article 15.	CIM and SMGS, but also CMR (Art. 37–40) and MC (Art. 37 and 48) contain provisions governing the relationship among several carriers. The new legal railway regime could include similar provisions, in particular those related to Articles 49–52 of CIM and Articles 32 and 33 of SMGS.	**Any carrier who has collected or ought to have collected, either at departure or on arrival, charges or other costs arising from the contract of carriage must pay to the carriers concerned their respective shares. The methods of payment shall be fixed by agreement between the carriers.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
	§ 3 If the destination railway issues the cargo without collecting the carriage charges that it should have recovered under the contract of carriage from the consignee, it shall be responsible for the payment of those charges to those railways involved in the carriage. **§ 4** Transactions between railways arising as a result of the application of the Agreement shall be conducted in accordance with a special agreement concluded between the railways on transaction procedure.		
Article 50 **Right of recourse**	**Article 33** **Requirements for inter-rail refund of compensation paid out**		**Article HH** **Right of recourse**
§ 1 A carrier who has paid compensation pursuant to these Uniform Rules shall have a right of recourse against the carriers who have taken part in the carriage in accordance with the following provisions: (a) the carrier who has caused the loss or damage shall be solely liable for it; (b) when the loss or damage has been caused by several carriers, each shall be liable for the loss or damage he has caused; if such distinction is impossible, the compensation shall be apportioned between them in accordance with letter c); (c) if it cannot be proved which of the carriers has caused the loss or damage, the compensation shall be apportioned between all the carriers who have taken part in the carriage, except those who prove that the loss or damage was not caused by them; such apportionment shall be in proportion to	**§ 1** A railway that pays compensation in accordance with this Agreement for the total or partial loss of or damage to goods, or for any delay in delivery, has the right to be reimbursed by the other railways involved in the carriage, as follows: (1) The railway through whose fault the damage occurred shall bear exclusive responsibility; (2) If the damage occurred through the fault of several railways, each of them shall bear responsibility for the damage it caused; (3) If it cannot be proved that the damage occurred through the fault of one or several railways, the responsibility shall be apportioned between the railways for each consignment in proportion to the tariff distance actually travelled by the consignment on each railway, with the exception of those that can prove that the damage did not occur in their section. **§ 2** If delays in delivery occur on several railways, the ratio used to calculate the		**§ 1 A carrier who has paid compensation pursuant to this legal regime shall have a right of recourse against the carriers who have taken part in the carriage in accordance with the following provisions:** **(a) the carrier who has caused the loss or damage shall be solely liable for it;** **(b) when the loss or damage has been caused by several carriers, each shall be liable for the loss or damage he has caused; if such distinction is impossible, the compensation shall be apportioned between them in accordance with letter c);** **(c) if it cannot be proved which of the carriers has caused the loss or damage, the compensation shall be apportioned between all the carriers who have taken part in the carriage, except those who prove that the loss or damage was not caused by them; such apportionment shall be in**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
their respective shares of the carriage charge. **§ 2** In the case of insolvency of any one of these carriers, the unpaid share due from him shall be apportioned among all the other carriers who have taken part in the carriage, in proportion to their respective shares of the carriage charge. **Article 51** **Procedure of recourse** **§ 1** The validity of the payment made by the carrier exercising a right of recourse pursuant to Article 50 may not be disputed by the carrier against whom the right of recourse is exercised, when compensation has been determined by a court or tribunal and when the latter carrier, duly served with notice of the proceedings, has been afforded an opportunity to intervene in the proceedings. The court or tribunal seized of the principal action shall determine what time shall be allowed for such notification of the proceedings and for intervention in the proceedings. **§ 2** A carrier exercising his right of recourse must make his claim in one and the same proceedings against all the carriers with whom he has not reached a settlement, failing which he shall lose his right of recourse in the case of those against whom he has not taken proceedings. **§ 3** The court or tribunal must give its decision in one and the same judgment on	penalty shall be determined in accordance with article 27, § 1, based on the total delay on all the railways and paid from the carriage charges received by each railway that allowed the delay to occur. **§ 3** The delivery time, established in accordance with article 14, shall be distributed between the railways involved in the carriage, as follows:		**proportion to their respective shares of the carriage charge.** **§ 2 In the case of insolvency of any one of these carriers, the unpaid share due from him shall be apportioned among all the other carriers who have taken part in the carriage, in proportion to their respective shares of the carriage charge.** **Article II** **Procedure of recourse** **§ 1 The validity of the payment made by the carrier exercising a right of recourse pursuant to Article HH may not be disputed by the carrier against whom the right of recourse is exercised when compensation has been determined by a court or tribunal and when the latter carrier, duly served with notice of the proceedings, has been afforded an opportunity to intervene in the proceedings. The court or tribunal seized of the principal action shall determine what time shall be allowed for such notification of the proceedings and for intervention in the proceedings.** **§ 2 A carrier exercising his right of recourse must make his claim in one and the same proceedings against all the carriers with whom he has not reached a settlement, failing which he shall lose his right of recourse in the case of those against whom he has not taken proceedings.** **§ 3 The court or tribunal must give its decision in one and the same**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
all recourse claims brought before it. **§ 4** The carrier wishing to enforce his right of recourse may bring his action in the courts or tribunals of the State on the territory of which one of the carriers participating in the carriage has his principal place of business, or the branch or agency which concluded the contract of carriage. **§ 5** When the action must be brought against several carriers, the plaintiff carrier shall be entitled to choose the court or tribunal in which he will bring the proceedings from among those having competence pursuant to § 4. **§ 6** Recourse proceedings may not be joined with proceedings for compensation taken by the person entitled under the contract of carriage. **Article 4 of CUV** **Liability in case of loss of or damage to a vehicle** **§ 1 The rail transport undertaking to which the vehicle has been provided for use as a means of transport shall be liable for the loss or damage resulting from loss of or damage to the vehicle or its accessories, unless it proves that the loss or damage was not caused by fault on its part.** **§ 2 The rail transport undertaking shall not be liable for loss or damage resulting from loss of accessories which are not mentioned on both sides of the vehicle or in the inventory which accompanies it.**			**judgement on all recourse claims brought before it.** **$ 4 The carrier wishing to enforce his right of recourse may bring his action in the courts or tribunals of the State on the territory of which one of the carriers participating in the carriage has his principal place of business or the branch or agency which concluded the contract of carriage.** **§ 5 When the action must be brought against several carriers, the plaintiff carrier shall be entitled to choose the court or tribunal in which he will bring the proceedings from among those having competence pursuant to § 4.** **§ 6 Recourse proceedings may not be joined with proceedings for compensation taken by the person entitled under the contract of carriage.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
§ 3 In case of loss of the vehicle or its accessories, the compensation shall be limited, to the exclusion of all other damages, to the usual value of the vehicle or of its accessories at the place and time of loss. When it is impossible to ascertain the day or the place of loss, the compensation shall be limited to the usual value on the day and at the place where the vehicle has been provided for use. **§ 4 In case of damage to the vehicle or its accessories, the compensation shall be limited, to the exclusion of all other damages, to the cost of repair. The compensation shall not exceed the amount due in case of loss.** **§ 5 The contracting parties may agree provisions derogating from §§ 1 to 4.** **Article 6 of CUV** **Presumption of loss of a vehicle** **§ 1 The person entitled may, without being required to furnish other proof, consider a vehicle as lost when he has asked the rail transport undertaking to which he provided the vehicle for use as a means of transport, to have a search for the vehicle carried out and if the vehicle has not been put at his disposal within three months following the day of receipt of his request or else when he has not received any indication of the place where the vehicle is situated. This period shall be increased by the time the vehicle is immobilised for any reason not attributable to the rail transport undertaking or owing to**			

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
damage. **§§ 2 to 4 ...** **Article 52** **Agreements concerning recourse** The carriers may conclude agreements which derogate from Articles 49 and 50.			
			Article JJ **Liability in case of loss of or damage to a vehicle or an intermodal transport unit (belonging to another carrier)**
		Vehicles and intermodal transport units, used as a means of transport, often are provided by one carrier to another carrier who is involved in the same contract of carriage. It seems to be useful in the new legal regime to deal with the liability of the carrier using a vehicle or intermodal transport unit of another carrier.	**§ 1 A carrier to whom another carrier (both involved in the same contract of carriage) has provided a vehicle for use as a means of transport to perform a carriage of goods under this legal regime shall be liable for the loss or damage resulting from loss of or damage to the vehicle or its accessories, unless he proves that the loss or damage was not caused by fault on his part. The carrier shall not be liable for loss or damage resulting from loss of accessories which are not mentioned on both sides of the vehicle or in the inventory which accompanies it.** **§ 2 In case of loss of the vehicle or its accessories, the compensation shall be limited to the usual value of the vehicle or of its accessories at the place and time of loss. When it is impossible to ascertain the day or the place of loss, the compensation shall be limited to the usual value on the day and at the place where the vehicle has been provided for use.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
			§ 3 In case of damage to the vehicle or its accessories, the compensation shall be limited to the cost of repair. The compensation shall not exceed the amount due in case of loss. **§ 4 No further damages shall be payable.** **§ 5 The carrier entitled may, without being required to furnish other proof, consider a vehicle as lost when he has asked the carrier to whom he provided the vehicle for use as a means of transport, to have a search for the vehicle carried out and if the vehicle has not been put at his disposal within three months following the day of receipt of his request or else when he has not received any indication of the place where the vehicle is situated.** **§ 6 If a carrier, under the circumstances of § 1, has provided another carrier with an intermodal transport unit, §§ 1 to 5 shall apply by analogy.** **Article KK** **Agreements concerning recourse** **The carriers may conclude agreements which derogate from Articles GG and HH.**

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Recourse of action (infrastructure, rolling stock, technical specifications, rail security/safety)			
		1. Infrastructure The relationship between carrier and consignor does not depend on whether the carrier is also infrastructure manager or not. However, SMGS seems to indicate otherwise (Art. 2, para. 1). CIM (Art. 23, para. 1) clarifies that the liability of the carrier is independent of the railway infrastructure used (own infrastructure or that of a third person). Furthermore, CIM stipulates (Art. 40, 2. sentence) that the infrastructure manager is to be considered as an agent of the carrier. Thus, the carrier is liable for the infrastructure manager. The legal and contractual relationship between carrier and infrastructure manager is not addressed by the rules of rail carriage, but, for example, in COTIF/CUI. Article 1, para. 5 of CIM excludes the application of CIM for carriage between stations on the territory of neighbouring States when the infrastructure of these stations is managed by one or more infrastructure managers subject to only one of those States. This is due to the fact that these cases are frequently regulated through bilateral inter-governmental agreements.	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
		2. Rolling stock	
		The relationship between carrier and consignor does not depend on whether the carrier uses for the carriage his own or third-party vehicles. In CMR this is explicitly stated (Art. 17, para. 3).	
		In case of carriage of railway vehicles running on their own wheels and consigned as goods (see Art. 5, para.1 of SMGS), specific liability rules could be established as is done in CIM (Art. 24, 30, para. 3 and Art.32, para. 3).	
		Should a carrier use, in through rail transport without transhipment of the goods, foreign vehicles (that may belong to other carriers or to leasing/rental companies) the relationship between the vehicle owner (keeper) and the carrier should be regulated in specific rules concerning contracts of use of rail vehicles (see COTIF/CUV and annex 10 to SMGS). These rules are not part of the rules of rail carriage applicable between consignor and carrier and would therefore not be part of the new legal railway regime.	
		Possibly, provisions addressing the liability of the carrier for loss or damage to rail vehicles of other carriers could be included in the new legal railway regime (Section: Relations between carriers).	**See Article FF above**
		Technical specifications of rail vehicles should not be regulated in the new legal regime.	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
		3. Intermodal transport units	
		Intermodal transport units (containers, swap-bodies and semi-trailers) or other comparable loading units used in intermodal transport, without transhipment of the goods (see Art. 3 d), Art. 30, para. 3 and Art. 32, para. 3 of CIM as well as Annexes 8 and 11 to SMGS) are to be treated as rail vehicles: Loading units are either part of the goods (packaging) if provided by the consignor or are means of transport if provided by the carrier.	
		In case loading units are part of the goods, the liability of the carrier should be addressed in the new legal railway regime, similar to Art. 30, para. 3 and Art. 32, para. 3 of CIM.	**See Article T § 4 and Article U § 4 above**
		In case loading units are means of transport, the liability of a carrier for loading units of another carrier could also be included in Article **JJ** of the new legal railway regime.	**See Article JJ § 6 above**
		Technical specifications of loading units should not be regulated in the new legal railway regime.	
		4. Rail security/safety	
		Refer to the proposed wording of the new legal railway regime “Scope of Application”, Article C: Prescription of public law.	

COTIF/CIM (1999)	*SMGS Agreement (2013)*	*Evaluation of the UNECE secretariat*	*Possible wording of a new legal regime for Euro-Asian rail freight transport*
Form of the legal document (mandatory, voluntary, etc.)			
		Refer to the proposed wording of the new legal railway regime "Scope of Application", Article B: Mandatory law.	