Legal interoperability CIM/SMGS:
Development of a single railway transport documentation

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Scope of the CIM and SMGS
State of 1. February 2010

Legal duality

<table>
<thead>
<tr>
<th>CIM (Uniform Rules concerning the Contract of International Carriage of Goods by Rail - Appendix B to COTIF)</th>
<th>SMGS (Agreement on International Goods Transport by Rail)</th>
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</thead>
<tbody>
<tr>
<td>Annex to the main convention</td>
<td>Main convention</td>
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<tr>
<td>Consensual contract</td>
<td>Formal contract</td>
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<td>Contractual freedom</td>
<td>Obligation to set and publish tariffs and to carry</td>
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<tr>
<td>Consignment note design within the competence of RUs</td>
<td>Consignment note defined in SMGS itself</td>
</tr>
<tr>
<td>Joint and several liability</td>
<td>Individual liability</td>
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</tbody>
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Differences in organisations

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<tbody>
<tr>
<td><strong>OTIF (Intergovernmental Organisation for International Carriage by Rail)</strong></td>
</tr>
<tr>
<td>Bern</td>
</tr>
<tr>
<td>Since 1985 (Central Office 1893)</td>
</tr>
<tr>
<td>44 Member States</td>
</tr>
<tr>
<td>Only Member States with Infrastructure</td>
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<tr>
<td>Majority</td>
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<tr>
<td>German/French/English</td>
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</tbody>
</table>

Competence for the consignment note

CIM

Article 6 § 8 CIM: "The international associations of carriers (as the CIT) shall establish uniform model consignment notes in agreement with the customers’ international associations and the bodies having competence for customs matters …".

SMGS

Article 7 SMGS: The design of the consignment note is defined in the SMGS itself (Annex 12.1 SMGS – competence of the OSJD)

CIT/OSJD Project: Legal Interoperability CIM/SMGS

**Phase 1:**
Common CIM/SMGS consignment note

**Phase 2:**
Standardised claims handling mechanism

**Phase 3:**
Single Eurasian Rail Transport Law
**Common CIM/SMGS consignment note**

- "Sum" of the CIM- and SMGS-consignment notes
- Based on the United Nations Layout Key for Trade Documents
- Recognition as:
  - Customs document
  - Letter of credit

**Electronic consignment note CIM/SMGS**

- Legal basis for the electronic exchange of consignment note data:
  - Article 6 § 9 CIM: based on functional equivalence
  - Article 7 § 14 SMGS: based on an agreement between the carrier and the customer
- Electronic consignment note CIM/SMGS:
  - Functional specifications
  - Legal specifications
  - Technical specifications
    - Practical Implementation – the participating railways (support Raildata / OSJD / CIT)

**Further improvements: CIM/SMGS wagon and container lists**
**Practical use of the CIM/SMGS consignment note**

Traffic movements:
- More than 50 traffic axes in 4 TEN Corridors
- Examples:
  - Germany – Russia (via Poland and Belarus)
  - Germany – Ukraine
  - Czech Republic – Russia / Ukraine
  - Romania – Russia
- Saves time – 40 min per wagon
- Saves money – 40 € per wagon
- Improves the overall legal certainty

Further improvements:
- Using one CIM/SMGS consignment note plus a wagon list or container list
- Extending the scope of the CIM/SMGS consignment note

**Use of the CIM/SMGS consignment note**

**Phase 2: Standardisation of the CIM/SMGS liability regimes**

Objective:
- Harmonised provisions for the two legal relationships:
  - Customer – RU
  - RU – RU

In practice:
- Guidelines for the CIM and SMGS liability regimes
- Common CIM/SMGS formal report
- Legal presumption following reconsignement
- Common CIM/SMGS claims handling rules
- Payment of compensation rules
Common CIM/SMGS formal report, legal presumption and claims handling rules

- **CIM/SMGS formal report** (Annex 8, 8.1)
  - used by the RU when it sees loss or damage

- **Legal presumption** (28 § 3 CIM / 23 § 10 SMGS)
  - when there is no formal report of loss or damage
  - advantage for the consignee: the last carrier must handle his claim

- **Claims handling rules** (Point 12.3)

- **Payment of compensation rules** (Point 12.4)

**Further objectives:**

- Objectives for the next months: extend the application of the consignment note in practice

- Especially for the VW transportation to Kaluga near Moscow and for the transcontinental transportation between Europe and China on the Silk Road

- Using for the Container train between Turkey and Central Asia (Haydarpasa – Almaty)

- Using for the intermodal transportation on the Black Sea Connections between Turkey, Russian Federation and the Ukraine

**The Kaliningrad Declaration**

1. Extension of the CIM/SMGS Consignment note to
   - Kazakhstan, Mongolia and China
   - International ferry links
2. Completion of the work on the electronic CIM/SMGS Consignment note
3. Training and spread of information
4. Further Improvements of the legal framework
5. Evaluation of different proposals through CIT and OSJD
Global supply chains from railway prospective

Extending the scope of the CIM/SMGS consignment note for

- On the land bridge between Europe and Asia/China
- In transit through Mongolia
- In Central Asia and Kazakhstan on the Silk Road
- On the TransSib
- On further traffic axes in the Russian Federation
- Pilot movements

Phase 3: Two legal areas one single law
The next steps in the third stage: „STC-Eurasia“

- Special Terms and Conditions for CIM/SMGS traffic (STC-CIM/SMGS)
- Inspired by CIM and SMGS principles
- The contract of carriage can refer to them
- On some transcontinental axes?
- Single paper consignment note and/or only electronic records?
- Carriers taking part accept joint liability
- Liability to the customer limited to the value of the goods
- Optional: Compensation up to the value declared
- Relief from liability in accordance with the CIM and/or SMGS
- Limits against whom can be taken action (contractual and last carrier)
- Compensation between the carriers sharing in proportion to tariff kilometres or carriage charges?

Uniform law for CIM/SMGS traffics