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Working Party on Customs Questions
affecting Transport

(One-hundred-and-first-session, 19-21 June 2002,
agenda item 5)

Informal Ad hoc Expert Group on Customs Rail Transit
based on the SMGS Consignment Note
(11 February 2002)

**REPORT OF THE INFORMAL AD HOC EXPERT GROUP ON
CUSTOMS RAIL TRANSIT BASED ON THE SMGS CONSIGNMENT NOTE**

Note by the secretariat

INTRODUCTION

1. The present document has been prepared by the secretariat on the basis of the proceedings of the informal Ad hoc expert group on Customs Rail Transit based on the SMGS consignment note (Geneva, 11 February 2002). The report summarizes the presentations made, the views expressed and the conclusions drawn during the meeting. The purpose of this report is to provide a basis for further work to be undertaken concerning this issue by the Working Party.

ATTENDANCE

2. The session was attended by representatives from the following countries: Azerbaijan; Bulgaria; Czech Republic; France; Germany; Lithuania; Norway; Russian Federation and Turkey.

3. The following inter-governmental organizations were represented: Committee of the Organization for Cooperation between Railways (OSZhD); UNECE Trans European Railway Project (TER).

4. The following non-governmental organizations was represented: International Union of Railways/Community of European Railways (UIC/CER).

ADOPTION OF THE AGENDA

Documentation: TRANS/WP.30/2002/9.

5. The expert group adopted the provisional agenda prepared by the secretariat (TRANS/WP.30/2002/9).

INTRODUCTION AND MANDATE

Documentation: TRANS/2001/10; TRANS/WP.30/194; TRANS/WP.30/192.

6. The expert group recalled the history of developing harmonized pan-European Customs transit procedures for international rail transport, which had commenced in 1992. The Working Party had, at its ninety-sixth session, terminated its activities towards the preparation of two draft conventions for this purpose: one covering the area of the COTIF Convention and one covering the area of the SMGS Agreement.

7. According to the decision of the Working Party (TRANS/WP.30/192, paras. 14-21), the two draft conventions prepared for this purpose had been transmitted, via diplomatic channels, to the Contracting Parties to the COTIF Convention and to the SMGS Agreement respectively with a view to soliciting their views on the approach taken and on the Customs transit procedures proposed therein (TRANS/WP.30/198, para. 26). The secretariat has received 10 replies from Contracting Parties.

8. On the basis of the comments received and in accordance with the decision of the Inland Transport Committee (ECE/TRANS/136) the Working Party, at its ninety-seventh session, agreed not to continue any further work on the draft convention based on the COTIF consignment note. The secretariat was, however, requested to convene the present meeting of interested countries and international organizations to review the provisions of the draft convention based on the SMGS consignment note and to prepare a revised draft for consideration of the Working Party (TRANS/WP.30/194, para. 25).

9. The expert group was informed by the representative of the TER project about the conclusions of a seminar on the facilitation of border crossings in international rail transport organized by TER (Karlovy Vary, 10 to 12 December 2001). The meeting had emphasized the importance of facilitating border crossing procedures in international rail transport through harmonization of procedures. The meeting had also agreed to continue monitoring and studying specific problems for border crossing procedures in international rail transport (Informal document No. 5 (2002)).

**REVIEW OF THE PROVISIONS OF THE DRAFT CONVENTION ON
INTERNATIONAL CUSTOMS TRANSIT PROCEDURES FOR THE CARRIAGE OF
GOODS BY RAIL UNDER COVER OF THE SMGS CONSIGNMENT NOTE**

Documentation: TRANS/WP.30/2002/12; TRANS/WP.30/2002/9; TRANS/WP.30/2002/10; Informal document No. 4 (2002); Informal document No. 5 (2002); TRANS/2001/10; TRANS/WP.30/194; TRANS/WP.30/2000/17; TRANS/WP.30/164; TRANS/WP.30/R.141.

10. The expert group was informed by the representatives of the International Union of Railways/Community of European Railways (UIC/CER) about the status and experiences of using the CIM consignment note as a Customs declaration in the Common Transit system. The Working Party took note that the procedures of using the CIM consignment note functioned without any major problems. The UIC/CER recommended that the procedures applied for the CIM consignment note as a Customs transit declaration under the Common Transit system could be used as a benchmark for the use of the SMGS Consignment Note in the Contracting Parties of the SMGS Agreement. This would also facilitate the transfer of consignments between the Contracting Parties of the COTIF Convention and the SMGS Agreement.

11. The expert group was informed that the SMGS consignment note was already used as a Customs transit declaration in Poland and Bulgaria and that the Republic of Belarus had initiated a pilot project to use the SMGS consignment note as a Customs transit declaration.

12. The expert group undertook a review of the provisions of the draft Conventions on International Customs Transit Procedures for the Carriage of Goods by Rail under cover of the CIM and SMGS consignment notes (TRANS/2001/10) and the comments received by Contracting Parties (TRANS/WP.30/2002/10).

13. The following main points were addressed:

(a) Information contained in consignment notes (Article 7.1). It was noted that in both the CIM and SMGS rail consignment notes it seemed to be obligatory to provide the HS code of the goods transported. Such information was considered to be important for Customs authorities to accept using the consignment notes as Customs transit declarations. The expert group also discussed the number of copies of the consignment note needed. The expert group took note that the CIM consignment note is issued in five copies.

(b) Storage of documentation (Article 7.2). A number of Contracting Parties to the SMGS Agreement were in favour of extending the period, during which a railway undertaking must store transport documents, to five years in order to align the provisions of the Convention with national legislation.

(c) Responsibility of railways (Article 8.4). According to a proposal from the Russian Federation, railway companies should be liable towards competent authorities in their own countries according to national legislation. The expert group discussed extensively this proposal. Several delegations found that the acceptance of the proposal would not lead to clarity concerning the responsibilities of railways.

(d) Guarantee waiver (Article 10). The expert group discussed the proposal of the Russian Federation to include provisions allowing Contracting Parties not to waive the guarantees. The expert group took note that in the future it is not certain that guarantees will be waived for railways under the Common Transit system, in particular for non-state owned railway companies. The expert group was of the view that this question should be considered in further detail.

(e) Procedures at Customs offices of transit (Article 15.1). According to the provisions contained in the original draft no formalities shall be carried out at Customs offices of transit. However, some Contracting Parties to the SMGS Agreement felt that control formalities at borders should not be dispensed with. The expert group noted that the original draft, in this respect, provided facilitation measures similar to those applied for the CIM consignment note under the Common Transit Convention. The expert group, in general, felt that the facilitation measures contained in the original draft would be preferable with a view to pursuing further harmonization.

CONCLUSIONS

14. The expert group emphasized the importance of finalizing the draft Convention on International Customs Transit Procedures for the Carriage of Goods by Rail under cover of the SMGS consignment note with a view to facilitating international Customs rail transit. The expert group noted that there is a demand by Governments for a harmonization of Customs transit procedures governing rail transport in the SMGS area.

15. The expert group recognized that the modifications proposed by the Contracting Parties to the SMGS Agreement, would lead to considerably reduced facilitation measures, i.e. compared to the draft SMGS Convention for Customs rail compared to the original provisions and to those facilitation measures provided for by the CIM consignment note within the Common Transit system. It seemed that the reasons for the proposals by some of the Contracting Parties to the SMGS Agreement were made against the background of the widely different, and often very basic, conditions for cooperation among railways in the SMGS area compared to the standard procedures and requirements applicable under the Common Transit system.

16. The expert group agreed that in order to accelerate the harmonization of Customs transit procedures among the Contracting Parties of the SMGS Agreement a two-step approach could be pursued:

- (a) the preparation and adoption of a Resolution recommending Contracting Parties of the SMGS Agreement to adopt the SMGS Consignment note as a Customs transit declaration;
- (b) continued work towards finalizing a legally enforceable Convention, including all of the proposed facilitation measures similar to the procedures applicable to the CIM consignment note under the Common Transit system.

17. The expert group also agreed that further studies should be initiated on how to facilitate the transfer of consignments between Contracting Parties to the COTIF Convention and the SMGS Agreement. The expert group invited those Contracting Parties to the COTIF Convention and the SMGS Agreement that had not yet transmitted their comments to the secretariat concerning the draft conventions to do so as soon as possible. On the basis of additional replies and those already received, the secretariat was requested to continue work together with interested countries and competent organizations to find a harmonized approach to Customs rail transit facilitation in a pan-European context.

