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Inland Transport Committee

Working Party on Customs Questions affecting Transport

146th session

Geneva, 13-16 June 2017

Item 5 of the provisional agenda

International Convention to Facilitate the Crossing

of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952

International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952

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

Introduction

In Annex, the secretariat reproduces, at the request of OSJD, the following information:

- (a) Letter of 28 April 2017;
- (b) Letter of 15 May 2017;
- (c) Aide-Mémoire (AM) meeting 13-14 April 2017;
- (d) Annex 1 to the AM: Comparative Analysis;
- (e) Annex 3 to the AM¹: Table of remarks;
- (f) Annex 4 to the AM: Note;
- (g) Annex 5 to the AM: Main novelty;
- (h) Annex 6 to the AM: Text of the draft Convention;
- (i) Annex 7 tot the AM: Table of remarks;
- (j) Comments on the draft by OTIF and EU.

¹ For information: there is no Annex 2



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I-4/238 K

Warsaw, 28 April 2017

To: Secretariat of the UNECE ITC

DG MOVE

DG TAXUD

Mr. François Davenne, Secretary General is

**Cc: All member countries of the OSJD,
Railways of the member countries of the OSJD**

Ladies and gentlemen,

The OSJD Committee expresses its appreciation to you for your position laid down in details and submission of your remarks and proposals, which means that you are not indifferent to the Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail, as well as for your work carried out on the preparation of new draft Convention and your contribution to this work.

As you know, the 145th session of the Working Party on Customs Questions affecting Transport (WP.30) recommended the Informal working group on the preparation of new draft Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail, which acts under the aegis of the United Nations, to hold a Consultative meeting prior to the 146th session of the WP.30 with participation of the countries concerned, regional organisations for economic integration and international organisations in order to consider in detail the prepared document on all hands, listen to positions of the sides, exchange opinions and prepare a consolidated position to be presented at the 146th session of the WP.30.

The positions of the EU and OTIF were many times expressed at the sessions of the WP.30, SC.2 as well as in the letters sent to the OSJD Committee. Not by accident, it was proposed to have a Consultative meeting to discuss the new draft Convention and find a consolidated position in the interests of a common cause of our countries.

Accordingly, a Consultative meeting of the Informal working group of experts under the aegis of the UNECE on the preparation of new draft Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail took place at the OSJD Committee on 13-14 April 2017.

The Consultative meeting was attended by representatives from the following countries: Republic of Azerbaijan, Georgia, People's Republic of China, Kyrgyz Republic, Republic of Moldova, Republic of Poland, Russian Federation, Romania, Republic of Tajikistan, Ukraine as well as Eurasian Economic Commission (EEC) and OSJD Committee.

The leading performer presented documents for consideration as follows: the comparative analysis of the current international agreements and the new draft Convention, the updated draft new Convention in view of remarks and proposals of the EU and the EEC, the table of comments to the remarks, the Note concerning new draft Convention and the main novelty of draft Convention.

The meeting, having article by article considered the new draft Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail, made the respective modifications in the text of the new draft Convention and in the table of remarks to the text of new Convention in view of remarks and proposals made by the EU, EEC and Russian Federation. Whereby, we noted that most of the remarks and proposals made by the EU were taken into account and accepted by the Consultative meeting participants.

The meeting, having once again confirmed the need for and practical usefulness of the new Convention, believes that the proposed new draft Convention fully represents a self-standing international agreement taking into account all the new present-day technologies, and is ready for its practical implementation for border crossing in international passenger traffic by rail in the Eurasian area.

The meeting participants took a decision to work, in conjunction with the secretariat of the UNECE ITC and OSJD Committee, at the final clauses of new draft Convention in view of remarks and proposals received from the United Nations Office of Legal Affairs, EU, EEC and OTIF.

The meeting participants kindly requested the OSJD member countries that are EU members to conduct consultations with the EU Commission with regard to the provisions of the new draft Convention in respect of its participation in it as a Party of regional organisation for economic integration.

Please let us also introduce our own comments as to the EU letter with regard to usefulness and common benefit from the new draft Convention to the EU and its member states.

1. Indeed, the EU countries and the EU neighboring countries have their own normative standards, but to preserve international passenger traffic, we have to find a common approach and understanding of one goal i.e. preservation and development of passenger traffic.

2. As you know the OSJD member countries signed Memoranda on 13 OSJD corridors with regard to cooperation on operational, commercial and technical issues.

It concerns, first of all, border crossing points that are one of the serious barriers for international passenger trains running between East and West.

We would like to remind that it was the EU that proposed arranging the interaction between the OSJD corridors and EU RFC.

This brings up the question – what kind of interaction there might be, if the idea is denied with regard to creation of the Convention stipulating the rules and requirements for the border crossing points on international routes. We believe it is a convincing argument instead of searching for benefits.

3. When the state of affairs was under consideration with regard to international passenger traffic between East and West in the UNECE at the 79th session of the UNECE ITC, Resolution 264 was unanimously adopted and sent to all the countries of Europe and Asia. The session welcomed the work in progress and draft Convention prepared by the UNECE secretariat, OSJD Committee and Informal working group of experts on the new Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail in view of good practices that are applied as well as remarks and proposals on amendments and proposals prepared by all the sides and competent bodies interested in this Convention, and suggested that the Governments should take effective measures to provide support of international railway traffic services, their improvement to meet the needs of passengers for such services and actively attract mechanisms of state support for the preservation of international railway passenger traffic through the improvement of its regulatory and legal framework.

Moreover, the EU countries have, voting in favour of Resolution 264, supported it, and in doing so they expressed explicit support of measures on the preservation and development of East-West passenger traffic, including those on the preparation of new draft Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail.

4. The Convention of 1952 is available for passenger traffic, which is practically out of date and does not correspond to the reality of today.

Naturally, it could be modified and updated. But the paradox is that it was done and adopted in such a form that modifying and updating is not feasible.

Accordingly, it has become necessary to prepare a new and up-to-date framework Convention corresponding to the reality of today and looking into the future. Draft Convention includes 13 pieces of novelty, including the possibility of its modifying and updating wherever necessary.

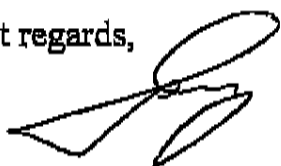
It is thus surprising that similar work on the preparation of Annex 9 to the Convention on frontier controls of goods of 1982 was backed up by the EU, and a comparable Convention on international passenger traffic is not supported by it.

We hereby send you the Aide-Memoire of the Consultative meeting of the Informal working group under the aegis of the UNECE ITC on the preparation of

draft International Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail with Annexes only in digital form.

In this respect, we kindly request the EU and OTIF to constructively approach, in view of newly brought forward arguments, to the support and promotion of the new Convention on the platform of the UNECE ITC. Naturally, we are ready to consider your other remarks and proposals aimed at improving its quality.

With best regards,



Tadeusz Szozda

Chairman of OSJD Committee



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I-4/239 K

Warsaw, 15 May 2017

To: Secretariat of the UNECE ITC

DG MOVE

DG TAXUD

Mr. François Davenne, Secretary General is

**Cc: All member countries of the OSJD,
Railways of the member countries of the OSJD**

Ladies and gentlemen,

In addition to the OSJD Committee's letter I-4/238 K dated 28 April 2017, please find attached the updated text of draft new Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail, prepared by the leading performer from the Russian Federation, and the table of changes in Russian and English as well as comments on draft new Convention for consideration and decision-making on this issue at the 146th session of the WP.30.

According to the provisional agenda, this issue will be considered on 15 June 2017 at 10.00 of local time at the joint meeting of the 146th session of the WP.30 and SC.2.

In this respect, the UNECE ITC is kindly requested to distribute the attached documents to the participants in the 16th session of the WP.30.

The OSJD Committee kindly requests the OSJD member countries to take part in the 146th session of the WP.30 that will take place in the Palace of Nations in Geneva on 15 June 2017.

With best regards,

Tadeusz Szozda

Chairman of OSJD Committee

ORGANISATION FOR COOPERATION BETWEEN RAILWAYS (OSJD)



AIDE-MEMOIRE

**Consultative Meeting of Informal Working Group under the aegis of the
UNECE ITC on preparation of draft Convention on facilitation of border
crossing procedures for passengers, luggage and load-luggage carried in
international traffic by rail**

**13 – 14 April 2017
OSJD Committee, Warsaw**

AIDE-MEMOIRE

Consultative Meeting of Informal working group under the aegis of UNECE ITC on the preparation of draft Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail

(13-14 April 2017, OSJD Committee, Warsaw)

The Consultative Meeting of Informal Working Group under the aegis of the UNECE ITC on the preparation of draft Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail (hereinafter, Convention) was attended by representatives from the following countries:

Republic of Azerbaijan,
Georgia,
People's Republic of China,
Kyrgyz Republic,
Republic of Moldova,
Republic of Poland,
Russian Federation,
Romania,
Republic of Tajikistan,
Ukraine as well as
Eurasian Economic Commission (EEC) and OSJD Committee

The list of participants of the meeting shall be attached to the Aide-Memoire (*Annex A*).

Mr. V. Zhukov, Deputy Chairman of OSJD Committee, opened the meeting and informed the meeting participants on the support provided by the UNECE secretariat with regard to activities carried out on facilitation of border crossing for international passenger traffic by rail.

The meeting adopted the following agenda:

1. Consideration of draft Convention (document ECE/TRANS/WP.30/2017/5) in view of proposals made by the countries, regional and international organisations and elaboration of a consolidated position to agree on it for its consideration at the 146 session of the WP.30 (13-16 June 2017).

2. AOB

The results of discussion of the agenda:

Item 1 of the agenda

The Chair of the meeting Mr. Zhukov V.P. delivered information on the progress of preparation of new draft Convention and decisions adopted within the UNECE ITC working parties WP.30 and SC.2. The Chair of the meeting presented his own assertions with regard to remarks and comments on draft Convention received from the secretariat of the EU, EEC, OTIF and the United Nations Office of Legal Affairs.

The delegates from the Russian Federation presented documents for consideration as follows: the Comparative analysis of current international agreements and new draft Convention, the updated new draft Convention in view of remarks and comments made by the EU and EEC, the Table of comments to the remarks, the Note concerning new draft Convention and the main novelty of draft Convention (*Annexes 1-5*).

The Convention shall be adopted as a systematically important normative document governing the procedure for crossing State borders. Its signing must become the basis for implementing new projects in the field of railway traffic, in particular those on Eurasian transport routes, and may become one of preconditions for the development of high-speed interstate traffic.

The new draft Convention is of progressive nature and it contains the definitions and is aimed at the positive solution of issues concerning the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail in the Eurasian area in view of new technologies and innovations, which will undoubtedly contribute to the preservation and improvement of international passenger traffic between East and West.

The meeting, having article by article considered the new draft Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail, made the respective modifications in the text of the new draft Convention and in the Table of remarks to the text of new Convention (*Annexes 6, 7 in digital format*) in view of remarks and proposals made by the EU, EEC and Russian Federation.

The meeting, having once again confirmed the need for and practical usefulness of the new Convention, believes that the proposed new draft Convention fully represents a self-standing international agreement taking into account all the new present-day technologies, and is ready for its practical implementation for border crossing in international passenger traffic by rail in the Eurasian area.

The meeting participants took a decision to work, in conjunction with the secretariat of the UNECE ITC and OSJD Committee, at the final clauses of new draft Convention in view of remarks and proposals received from the United Nations Office of Legal Affairs, EU, EEC and OTIF, and requested the leading performer Russian Federation to submit the prepared consolidated draft text of the

new Convention to the secretariat of the UNECE ITC and OSJD Committee **before 26 April 2017** for consideration of new draft Convention on 15-16 June 2017 at the 146 session of the WP.30 with participation of the SC.2 representatives.

Item 2 of the agenda

The meeting participants kindly requested the OSJD member countries that are EU members to conduct consultations with the EU Commission with regard to the provisions of the new draft Convention in respect of its participation in it as a Party of regional organisation for economic integration.

The meeting kindly requests the secretariat of the UNECE ITC to provide the translation of draft text of the new Convention into English in accordance with requirements of the UN for the purpose of its distribution among the UNECE member states and regional economic integration organisations for its consideration at the nearest meetings of the WP.30 and SC.2.

The meeting participants, having considered the letters from OTIF and EU which focused on usefulness and benefits of the new Convention, kindly requested the OSJD Committee to prepare and send **before 21 April 2017** a draft letter on the results of the Consultative meeting to the participating countries for agreeing. The countries participating in this meeting shall submit **before 28 April 2017** to OSJD Committee their proposals and remarks as to draft letter, whereupon the OSJD Committee will send the agreed letter to the EU, EEC, OTIF and OSJD member countries.

The Chair of the meeting:

Zhukov Viktor

LIST

Participants in the Consultative Meeting of Informal Working Group under the aegis of the UNECE ITC on preparation of draft Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail

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THE COMPARATIVE ANALYSIS OF THE CURRENT INTERNATIONAL AGREEMENTS AND THE DRAFT CONVENTION PREPARED BY THE RUSSIAN SIDE ON FACILITATION OF BORDER CROSSING PROCEDURES FOR PASSENGERS, LUGGAGE AND LOAD-LUGGAGE CARRIED IN INTERNATIONAL TRAFFIC BY RAIL

Criteria for comparison	<i>International Convention to facilitate the crossing of frontiers for passengers and baggage carried by rail (Geneva, 10 January 1952)</i>	<i>International Convention on the Simplification and Harmonisation of Customs procedures (done in Kyoto on 18 May 1973) (in edition of the Protocol dated 26 June 1999)</i>	<i>International Convention on the Harmonisation of Frontier Controls of Goods (Geneva, 21 October 1982)</i>	<i>Draft new Convention on facilitation of borders crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail</i>
<i>General sphere of regulation</i>	The Convention was elaborated with the purpose of facilitating the procedures for cross-border railway traffic of passengers and baggage. The Convention regulates the carriage of passengers, baggage and goods in international passenger trains.	The Convention is a universal codifying international legal instrument in Customs matters. The Convention regulates all Customs issues. Whereby, the main subject of regulation includes the issues of cross-border movement of goods. The Convention is aimed at the simplification and harmonisation of Customs procedures. The main part of the Convention and its General Annex are of a legally binding nature. Its special annexes have no legally binding nature, and the states have the right to join them or not to join them.	The Convention covers all the import, export and transit goods crossing one or several maritime, air or land frontier. The Convention is aimed at eliminating the barriers in foreign trade and simplifying the movement of goods by means of reduction of requirements for completion of formalities as well as reduction of the number and duration of control measures, in particular by means of national and international coordination of procedures for control and methods to carry out control measures.	The Convention is drafted to facilitate border-crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail. Draft new Convention has been prepared in view of realities of passenger traffic and it regulates exclusively traffic of passengers, luggage and load-luggage
<i>Composition of participants</i>	10 participating States. European states only, with no international organisations.	101 participating States across the world and one international organisation i.e. European Union.	56 participating States across the world and one international organisation i.e. European Union.	It envisages the participation of European and Asian States for the implementation of new projects on the European-Asian routes.

<p>Goals</p>	<p>The Convention is aimed at facilitating cross-border procedures for rail traffic of passengers and baggage.</p>	<p>The Convention is aimed at eliminating differences in Customs procedures of the States participating in the Convention for the simplification and facilitation of international trade and other forms of international exchange, with the effective Customs control maintained.</p>	<p>The Convention is aimed at reducing the requirements for the observance of formalities as well as kinds and duration of controls, in particular by means of national and international coordination of procedures for control and their methods of application.</p>	<p>The Convention is aimed at achieving the following goals:</p> <ol style="list-style-type: none"> 1. Facilitating and expediting the crossing of borders with the effectiveness of State control maintained in virtue of application of international standards; 2. Extending the application of new technologies in the field of railway transport, in particular automatic gauge changeover technologies and high-speed rolling stock technologies; 3. Reducing the time frames for the completion of technological operations as to acceptance of trains at the railway stations, reducing the time frames for State control; 4. Providing the handiness, comfort and high-quality serving of passengers, with reducing the running time of trains.
<p>Relevancy</p>	<p>The Convention was adopted in 1952, and since that time it has not undergone any changes. The provisions of the Convention of 1952 concerning the carriage of goods in international passenger trains are not current. At present the carriage of goods in passenger trains is not</p>	<p>The provisions of the Convention are formulated not in the form of norms of direct effect, but in the form of principles designed to elaborate, on their basis, concrete rules for regulation of any particular procedures. In response to changes occurred</p>	<p>Annex 9 devoted to railway transport, facilitation of the crossing of frontiers on railways and the control of goods by means of reduction of agreeing and coordination of procedures and documents, it entered into force in November 2011.</p>	<p>Draft new Convention was prepared <i>in view of current international agreements</i>. Draft new Convention also <i>includes Glossary</i> containing current definitions applied in international practice. For instance, such definitions are used as “special control”,</p>

	<p>implemented, which is stipulated by the difference of technical requirements for passenger and freight traffic.</p>	<p>in the world trade, in 1999 the Convention underwent some changes, and today it is known as the revised Kyoto Convention.</p>		<p>“infrastructure manager” and “service staff”. The definition of “railway checkpoint” is used that reflects the current realities of possibility of passing the State control when at the railway station and at other areas located in the close proximity to the State border. With a view to providing uniformity of terminology, the term of “load-luggage” was introduced that is applied in the OSJD documents.</p>
<p><i>Specificity of conducting control</i></p>	<p>It is envisaged that police control and customs examination in international trains shall be carried out, if possible, during their movement, if they are more effective and at the same time it is more convenient for passengers.</p>	<p>In accordance with Standard Rule 3.4 of the General Annex of the Kyoto Convention, the Customs services of the neighbouring States shall carry out joint Customs control at the checkpoints on the common border in all the cases where it is feasible.</p>	<p>Subparagraph “a” of Article 7 of the International Convention on the Harmonisation of Frontier Controls of Goods of 21 October 1982 envisages that in all the cases of the crossing of the common land frontier, the parties concerned will, when it is feasible, take required measures to facilitate the carriage of goods, in particular by means of organisation of joint control of goods and documents by installing the commonly used equipment.</p>	<p>The places for conducting State controls are defined in a clear way. In addition to the methods of conducting State controls described in the Convention of 1952 that is when at the station and when en route, the new draft Convention introduces a method for control that enables the staff to carry out examination partly when at the station and partly when en route. The indicated method is relevant in the cases where the duration of nonstop running of the train before reaching or after passing the railway station is sufficient for conducting State control in the territory of only one of the States.</p>

<p><i>Application of technologies and best practices</i></p>	<p>Not envisaged.</p>	<p>The principle for application of modern methods of Customs control is established as well as possibly widest application of information technologies. All annexes to the Convention contain the recommended rules that are part of the text that has a legal force, and they must be considered as an “advanced” and “best” practice.</p>	<p>The contracting parties shall provide compliance of the time frames established by means of bilateral agreements with regard to completion of technological operations as to acceptance and transfer of trains at the border stations, including all the types of control, and shall endeavour to reduce the time frames by means of improvement of technologies and technical equipment. And in accordance with Article 13, the new axes concerning other types of control may be included in the Convention in accordance with the procedure established.</p>	<p>6. The important novelty is the confirmation of the intention of the Parties to the Convention to apply international standards, new technologies in the field of railway transport, in particular automatic gauge changeover technologies, and best practices for the improvement of operation of railway checkpoints and facilitation of procedures carried out in all the fields relating to international railway traffic</p>
<p><i>Requirements for checkpoints</i></p>	<p>Article 4 stipulates that the competent administrations of the States concerned shall, based on the special agreements, define the premises required by the service staff of the neighbouring country within the specified areas, and the conditions under which the railway administration of the State in whose territory the station is located, shall provide furniture, lighting, heating, cleaning services, capacities of telephone communications etc.</p>	<p>Not envisaged.</p>	<p>The following minimum requirements are established for border stations: 1. Availability of buildings (premises), constructions, arrangements and technical equipment allowing to conduct at the border stations the respective daily twenty-four-hour control, if it is justified and corresponds to volumes of freight traffic; 2. Border stations, at which the phytosanitary, veterinary and other types of control are</p>	<p>7. Article 11 of the Convention stipulates the need to observe by the Parties the minimum requirements for railway checkpoints that are open for international passenger traffic, including the availability of equipment, devices, information systems and communications facilities that make it possible to exchange preliminary information.</p>

	within these premises.		<p>conducted, shall be equipped with technical devices;</p> <p>3. Carriage and traffic capacities of the border stations and areas adjacent to them shall correspond to traffic volumes;</p> <p>4. The availability of control zones and warehouse infrastructure for the temporary storage of goods that are under customs and other types of control;</p> <p>6. The availability of qualified staff of railways, Customs and border control bodies and other authorities in accordance of the volumes of goods that are transported.</p>	
<i>Specificity of transmission of information</i>	On all the main routes, the contracting parties shall provide direct telephone communications between the border control stations of the neighbouring countries for the needs of railway transport services and shall take measures for the facilitation and speeding up of the development of private telephone communications. Based on a bilateral agreement, the direct telephone communications may be established for the needs of other state services as well.	For the improvement of Customs control, the Customs staff must use information technologies where it is possible. The fields of application of information technologies may include data gathering and data processing, documentary control, risk management system etc.	railway checkpoints must be equipped with technical facilities and information technology and communications systems to be able to receive and apply information on technical inspection and verification of rolling stock, which are carried out by state control authorities and carriers within their remit prior to the arrival of rolling stock at such checkpoints, unless the contracting parties implement alternative measures to perform such functions.	Article 13 of the Convention stipulates that the Parties may specify through individual agreements the volume of information required for conducting the State control. <i>Peculiarities are established for the transmission of information on passengers, luggage and load-luggage to be relayed by the carriers to the bodies of State control authorities, which is confidential and protected by legislation of the State that is a Party.</i>

<i>Visa issues</i>	Not settled.	Not settled.	The contracting parties shall endeavour to facilitate procedures for issuing visa to locomotive crews, crews of refrigerator sections, persons accompanying the goods and personnel of border control stations participating in international railway traffic, in accordance with the positive experience in the field of this activity in respect of all applicants. The procedure for border crossing by these persons shall be specified through bilateral agreements. When joint control is conducted, the staff members of border and Customs control bodies and other authorities fulfilling the control functions at the border control stations shall, when official duties are performed, cross the state border carrying the documents established by the parties for their citizen.	In accordance with the new draft Convention, the Contracting Parties <i>shall endeavour to facilitate procedures for issuing visas</i> , and also may agree the border crossing by staff members of train crews and service personnel in accordance with the agreed lists of names.
<i>Possibility of participation of regional organisations</i>	Not envisaged.	Any Customs or economic union may become a Contracting Party of this Convention.	The Convention is open for participation of all states and regional organisations for economic integration composed of sovereign states, being competent in respect of conduct of negotiations, conclusion and application of international agreements concerning the issues	The final clauses of the new draft Convention <i>envisage the possibility of participation of regional organisations for economic integration as Parties</i> .

<p><i>Availability of an individual article allowing the participants to conclude bilateral agreements</i></p>	<p>Not envisaged</p>	<p>Mechanisms for the implementation of principles of control at the borders, established by the Convention are an expression of will of the States and shall be implemented within the framework of international agreements.</p>	<p>covered in the Convention.</p> <p>In accordance with Article 6, the Contracting Parties undertake to co-operate with each other and to seek any necessary cooperation from the competent international bodies, in order to achieve the aims of this Convention, and furthermore to attempt to arrive at new multilateral or bilateral agreements or arrangements, if necessary.</p>	<p>An extended but closed list of issues (method, type, procedure, points of State control, time frames for conducting State control and other) is referred to regulation within the framework of individual agreements. The new draft Convention includes an individual Article allowing its Parties to conclude bilateral agreements that will supplement and clarify the provisions of the Convention.</p>
<p><i>Procedure for settling disputes</i></p>	<p>Article 15 establishes a general rule that any dispute between any two or more Contracting Parties concerning the interpretation or application of this Convention, which the Parties are unable to settle by negotiation or by another mode of settlement, may be referred for decision, at the request of any one of the Contracting Parties concerned, to an arbitral commission, to which each party to the dispute shall nominate one member; the chairman, who shall have the casting vote, shall be appointed by the Secretary-General of the United Nations.</p>	<p>Article 14 establishes a general rule that any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall so far as possible be settled by negotiation between them. Any dispute which is not settled by negotiation shall be referred by the Contracting Parties in dispute to the Management Committee which shall thereupon consider the dispute and make recommendations for its settlement. The Contracting Parties in dispute may agree in advance to accept the recommendations of the Management Committee as binding.</p>	<p>The settlement of possible disputes by the parties shall be regulated by Article 20 of the Convention. It stipulates that any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall, so far as possible, be settled by negotiation between them or by other means of settlement. If a dispute cannot be settled by negotiation it shall, at the request of one of the parties to the dispute, be referred to an arbitration tribunal.</p>	<p>More detailed work was carried out at the procedure for settlement of disputes. So, any dispute between the Parties concerning the interpretation or application of this Convention shall be referred to an arbitration commission. Whereby, draft Convention stipulates that the dispute may be referred for examination only in the case where the consent is expressed by the parties to the dispute, since the decision of the arbitration commission shall be binding on the parties to the dispute.</p>

<i>The table of remarks to the text of new Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail</i>	
<i>The remarks made by the EEC of the EEU are taken into account in the text of draft Convention, except for the remarks to Article 13, correlating with the proposals made by the Ministry of Foreign Affairs of Russia as well as remarks to the final clauses of draft Convention. Comments on the remarks made by the EU are indicated in the table.</i>	
<i>Content and the mover of the remark</i>	<i>Comments made by the informal working group</i>
<p><u>Article 1</u> Harmonising with the Convention on Harmonisation (1). Contradiction with Article 18 (f) Harmonising or clarifying the term “special controls” (k, 1)</p> <p><i>Mover – EU</i></p>	<p>The remark has been considered. <i>International convention on the simplification and harmonisation of customs procedures (Convention) (done in Kyoto on 18 May 1973)</i> regulates the procedure for customs control (E7./F3. “Customs control” means measures applied by the Customs to ensure compliance with Customs law”); paragraph 1 of draft Convention specifies the State control that includes border control, Customs control and other types of State control established by legislation. Paragraph f specifies the definition “railway checkpoint”, Article 18 stipulates the procedure for defining the checkpoints, in whose territory State control is carried out. The definition of “special control” (paragraph m) will be excluded from draft text according to the remark by the EEC.</p>
<p><u>Article 2</u> Due to unclear relations between paragraphs (a) and (d), paragraph (d) is, possibly, redundant. As an option, if paragraph (d) remains, the phrase “the carriers of the Parties” must be replaced with the phrase “...the carriers concerned”.</p> <p><i>Mover – EU</i></p>	<p>The remark has been considered. Paragraph a – relations of State bodies Paragraph d – relations of State bodies and carriers.</p>
<p><u>Article 3</u> A disconnection clause must be made to make sure that the EU laws remain in force on the EU external borders: “This Convention shall not violate the rights and obligations resulting from other international agreements signed by the Parties to the Convention or from their membership in regional organisations for economic integration. The need for bilateral and administrative agreements in addition to the Convention must be limited.</p>	<p>The remark has been accepted.</p>

<p><i>Mover – EU</i></p>	
<p><u>Article 4 (3)</u> Harmonising the phrase “controls at borders” with the definition in Article 1.</p>	<p>The remark has been considered. Paragraph 3 uses the definition of “State control” that corresponds to the definition specified in paragraph 1 of Article 1.</p>
<p><i>Mover – EU</i></p> <p><u>Article 5 (1)</u> Redundancy</p>	<p>The remark has been accepted.</p>
<p><i>Mover – EU</i></p> <p><u>Article 6</u> Controls of people at the border may not be cancelled by multilateral or bilateral agreements between the States, including the case of transit. The Shengen agreement is applied for the EU external border crossing: international agreements may regulate only how controls are carried out without covering the subject matter of such controls. This issue must be clarified in all the respective provisions of the agreement.</p>	<p>The remark has been accepted. Paragraph 4 was added to Article 3, which stipulates that the Convention shall not affect the rights and obligations resulting from other international agreements signed by the Parties or from their membership in regional organisations for economic integration.</p>
<p><i>Mover – EU</i></p> <p><u>Article 7</u> Time frame must be agreed not at state level but at level of various bodies of state authorities.</p>	<p>The remark has been accepted. Paragraph has been excluded.</p>
<p><i>Mover – EU</i></p> <p><u>Article 8+13</u> Use of paper and digital data exchange must be clarified hereafter.</p>	<p>The remark has been considered. The Convention provides the use of both forms of data exchange, including in terms of restrictions contained in provisions of legislation of the Parties or international agreements binding one of the parties.</p>
<p><i>Mover – EU</i></p> <p><u>Article 9</u> Visa formalities are within the remit of the EU, therefore the EU must be included in the agreement. Any reference to “official documents” featuring the staff as inspection officers implies the creation of new documents proving one’s identity that are not recognised by the current legislation of the EU. Therefore, such a reference must be deleted.</p>	<p>The remark has been accepted. Paragraph 4 was added to Article 3, which stipulates that the Convention shall not affect the rights and obligations resulting from other international agreements signed by the Parties or from their membership in regional organisations for economic integration.</p>

<p><u>Article 10+11</u> Harmonising with Annex 9, Article 3 of the Harmonisation Convention.</p> <p><i>Mover – EU</i></p>	<p>The remark has been accepted. Annex 9 to the International Convention on the Harmonization of Frontier Controls of Goods regulates the freight traffic. The International Convention on the Simplification and Harmonization of Customs procedures specifies in its Article 3 that its provisions shall not prevent the use of national legislation. Paragraph 4 was added to Article 3, which stipulates that the Convention shall not affect the rights and obligations resulting from other international agreements signed by the Parties or from their membership in regional organisations for economic integration.</p>
<p><u>Article 12</u> Redundant</p> <p><i>Mover – EU</i></p>	<p>The remark has been considered. The informal working group considers necessary to have indication of availability of insignia of the Parties’ officials, informing the Parties about it.</p>
<p><u>Article 13</u> It’s not quite clear what the indicated bilateral agreements must be about. As this paragraph reads, the workers (staff, officials) shall not disclose shall not disclose information safeguarded by legislation of the Party and nothing else. In view of the above-mentioned, it is proposed to exclude the indicated reference to bilateral agreements.</p> <p><i>Mover – EEC</i></p>	<p>It correlates with the remark of Ministry of Foreign Affairs of Russia. Paragraph 2 of Article 13 uses the definition of “persons engaged in international railway traffic”, however it is not clarified further in the text. We would propose defining this term in Article 1. This very Article reads that obligations to safeguard information, including confidential state information, shall rest with an undefined set of people, which is hardly feasible. Here, one has to take into account that protection of confidential state information is, as a rule, provided by bilateral agreements in this respect.</p>
<p><u>Article 14</u> The Parties may decide on a bilateral basis how to carry out controls. For establishing the joint border control points, the Shengen agreement prescribes the EU countries concerned to have consultations on the issue of compatibility of the agreement with the EU legislation prior to concluding the bilateral agreement on joint border control points with the neighbouring third country.</p> <p><i>Mover – EU</i></p>	<p>The remark has been accepted. Paragraph 4 was added to Article 3, which stipulates that the Convention shall not affect the rights and obligations resulting from other international agreements signed by the Parties or from their membership in regional organisations for economic integration.</p>
<p><u>Article 15 (1)</u></p>	<p>The remark has been considered.</p>

<p>Contradiction with Article 14, paragraph 1</p> <p><i>Mover – EU</i></p>	<p>Paragraph 1 of Article 15 reads as follows: “Without regard to the places where the State control may be carried out, the list of which appears in paragraph 5, if such control does not require the use of stationary applied forms and methods and the Parties have not determined specificity of State control to be conducted by a bilateral agreement, the State control shall be carried out directly in the cars of the train”.</p>
<p><u>Article 16</u> The provisions of paragraph 3 must be established by default. Paragraph 4 is redundant, if the procedure established by bi-lateral agreements, there is no need to mention how to follow the control. Paragraph 5 is redundant.</p> <p><i>Mover – EU</i></p>	<p>The remark has been accepted. The remarks do not comply with the updated version of the convention.</p>
<p><u>Article 17</u> Redundant (repetition of Article 7(3))</p> <p><i>Mover – EU</i></p>	<p>The remark has been accepted. Paragraph 3 of Article 7 was excluded.</p>
<p><i>Final clauses</i></p>	
<p><u>Article 21, 24</u> Article 21 Signing, ratification, acceptance, approval and accession This Convention, which shall be deposited with the Secretary-General of the United Nations, shall be open to the participation of all States. States or association of States may become Parties to this Convention; Article 24 Termination If, after the entry into force of this Convention, the number of States which are Parties is reduced to less than five for a period of twelve consecutive months, the Convention shall cease to have effect from the end of the twelve-month period in question.</p> <p><i>Mover – EU</i></p>	<p>Proposals made by the Ministry of Foreign Affairs of Russia. Option 1. Paragraph 2 of Article 21 to be excluded, refusing the participation of regional organisations for economic integration in the Convention. Option 2. Paragraph 2 of Article 21 to be excluded, envisaging the participation of regional organisations for economic integration in the Conference to revise the Convention in capacity of observer (Article 29). Option 3. Paragraph 2 of Article 21 to be excluded. To include in the text of the Convention an Article identical to provisions of Article 43-45 of the Convention on the Rights of Persons with Disabilities (dated 13.12.2006).</p>
<p>Article 26III The EU countries shall not individually accede to those parts of the Convention, which fall into exclusive competence of the EU. Therefore, the following wording must be inserted in the end of Article 26(1): “Members of Regional organisations for economic integration as indicated in Article 21(1) may declare themselves not to be bound by provisions of this</p>	<p>“Article 43 Согласие на обязательность The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession</p>

Convention, which fall into competence of such a Regional organisation for economic integration”.

Mover – EU

Article 27+29

The procedure for making amendments is available and laid down in draft Convention, although draft Convention does not refer to it at different times.

Paragraph 2 stipulates the principle of unanimity for modifying the Convention. This principle would make the modifying process difficult.

Mover – EU

by any State or regional integration organization which has not signed the Convention.

Article 44

Regional integration organizations

1. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by this Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to "States Parties" in the present Convention shall apply to such organizations within the limits of their competence.

3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, any instrument deposited by a regional integration organization shall not be counted.

4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa..

Article 45

Entry into force

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.

2. For each State or regional integration organization ratifying, formally confirming or acceding to the Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

Proposals made by the Ministry of Foreign Affairs of Russia to Article 27.

Paragraph 2 of Article 27 has been worded according to the position of the Ministry of Foreign Affairs of Russia.

“2. A proposed amendment shall enter into force with respect to all Parties depositing an instrument of ratification, acceptance or approval of the amendment on the thirtieth day following the date on which two third of the Parties have deposited their instrument of ratification, acceptance or approval of the amendment. Afterwards, the amendment will enter into force with respect to any other Party on the day that such Party will deposit its instrument of ratification, acceptance or approval of the amendment”.

**Note concerning new draft Convention
on facilitation of border crossing procedures for passengers, luggage
and load-luggage carried in international railway traffic by rail**

In the course of 2015 and 2016, the Ministry of Transport of the Russian Federation in conjunction with representatives from JSC RZD and JSC FPC actively supported the development of new draft Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international railway traffic by rail (hereinafter, Convention) within the framework of working groups at the Inland Transport Committee of the United Nations Economic Commission for Europe (UNECE ITC) and took active participation processing the remarks represented by stakeholders.

Draft Convention is historically based on the provisions of the International Convention to facilitate the crossing of frontiers for passengers and baggage carried by rail of 1952, whereby it systematically reforms them in view of the provisions of the International Convention on the Simplification and Harmonization of Customs procedures of 1973, International Convention on the Harmonization of Frontier Controls of Goods of 1982 г.¹ The Informal working group earlier prepared the comparative analysis of the current international agreements and draft Convention.²

Representatives from the Republic of Kazakhstan, Republic of Belarus, Republic of Poland, Ukraine, EEC of the EEU and UNECE supported draft Convention.³

The Convention is designed to:

1. become a legal basis to reduce and systematize bilateral agreements in the field of border crossing for railway passenger traffic;
2. establish general provisions to conduct State control for border crossing;
3. make it possible for carriers to implement new projects in the field of railway traffic, in particular on Eurasian transport routes, and it may become one of the preconditions for the development of high speed interstate traffic.

On 26-27 July 2016, a meeting of the Informal working group on preparation of draft Convention was held at the OSJD Committee, following the results of which all the meeting participants pointed out that it was needed to continue work on new draft Convention. The meeting considered the remarks and proposals on draft

¹ The main novelties are specified in Annex 1.

² The comparative analysis is provided for in Annex № 2.

³ Information concerning the existing positions with regard to draft Convention and the progress of its consideration is included in Annex 3 (presentation).

Convention submitted by the Republic of Belarus, Republic of Kazakhstan, DG MOVE, DG TAXUD and OTIF. All the proposals were summed up in order to prepare a consolidated text of draft Convention.

On 23 November 2016, a joint session of the Working Party on Customs Questions affecting Transport (WP.30 and the Working Party on Rail Transport (SC.2) of the UNECE ITC was held, following its results a “road map” was adopted for further actions on preparation of draft Convention, which foresees that it will be open for signature at the 80th session of the UNECE ITC in February 2018.

The “road map” also envisages as follows:

- The first fundamental study of the draft Convention within the WP.30 in *February 2017*;
- Presentation of draft Convention with modifications by the secretariat at the WP.30 and in the United Nations Office of Legal Affairs in New York in *March 2017*;
- Completion of draft Convention within WP.30 in *June 2017*;
- Presentation of the final text at the WP.30 and SC.2 in *July 2017*;
- Adoption of the final text within WP.30 in *October 2017*;
- Adoption of the final text within SC.2 in *November 2017*.

For the purpose of shaping a consolidated position of Russia with regard to draft Convention, following the results of a meeting on 19.01.2017 that took place at the office of the State Secretary - Deputy Minister of Transport of the Russian Federation Mr. Aristov S.A., ***an ad hoc working group was organised to elaborate a preliminary agreed text of draft Convention*** with participation of representatives from the Ministry of Transport of Russia, Federal Security Service of Russia, Federal Customs Service of Russia, JSC RZD and JSC FPC.

Following the results of the meetings held by the ad hoc working group, an updated version of draft Convention was prepared, which was agreed on with representatives from the bodies of State authorities. The version also includes the latest remarks made by the Railway of Kazakhstan, Tajik Railway and JSC PKP Intercity, submitted by the OSJD.

The updated text of draft Convention was submitted to the session of the Inland Transport Committee of the UNECE on 21-24 February 2017 as well as to the 145th session of the Working Party on Customs Questions affecting Transport of the UNECE ITC (WP.30) on 14-17 February 2017. In accordance with decisions

of the Working Party, the remarks to the text of draft Convention were submitted before 20 March 2017. The European Union and the Eurasian Economic Commission submitted their remarks.

Following the results of consideration of the remarks, an updated version of draft Convention was prepared⁴ along with a table of comments of the Informal working group as to the submitted remarks⁵. *A very important role within the submitted remarks belongs to the disputable position on the final clauses of draft Convention with regard to possible participation of regional organisations for economic integration in the agreement.*

⁴ Draft Convention with indication of modifications made is in Annex 6.

⁵ The Table of remarks is in Annex 3.

Main novelty of draft Convention

(In comparison with International Convention to facilitate the crossing of frontiers for passengers and baggage carried by rail (Geneva, 10 January 1952)

1. New draft Convention was prepared *in view of current international agreements*. The new draft Convention also includes *a glossary* that contains current definitions applied in international practice.

For reference only: For instance, such definitions are applied as “special control”, “infrastructure manager” and “service staff”. The definition of “railway checkpoint” is used that reflects today’s realities and possibilities for passing through the State control both at a railway station and in other areas located in close proximity to the State border. With a view to providing uniformity of terminology, the term of “load-luggage” was introduced that is applied in the OSJD documents.

2. The provisions of the Convention of 1952 on the carriage of goods in international passenger trains are not relevant. *New draft Convention* has been developed in view of realities of passenger traffic and *shall regulate exclusively the carriage of passengers, luggage and load-luggage*.
3. *It is envisaged to include* in the new draft Convention *as participants both European and Asian States*, in order to implement new large-scale projects on the routes between Europe and Asia.
4. *An enlarged preamble was added* to the new draft Convention, which defines the main purposes of the document. And also, *the preamble places a special emphasis on the need to maintain effectiveness of conducting State control and unconditional providing security*, which was not covered earlier in the Convention of 1952.
5. In addition to the methods of conducting control described in the Convention of 1952 i.e. when at the station and when en route, the new draft Convention *introduces a method of control that enables the staff to carry out examination partly when at the station and partly when en route, and it is specified possible to conduct control aboard the train when it runs between the stations of one State*.

6. The important novelty is *the confirmation of the intention of parties to the Convention to apply international standards, new technologies in the field of railway transport*, in particular automatic gauge changeover technologies, *and best practices* for the improvement of operation of railway checkpoints and facilitation of procedures carried out in all the fields relating to international railway traffic.
7. Article 11 of the Convention *stipulates the need to observe by the Parties the minimum requirements for railway checkpoints* that are open for international passenger traffic, including the availability of equipment, devices, information systems and communications facilities that make it possible to *exchange preliminary information*.

In view of the need to improve the quality of rendered services, the usage of modern technical achievements in the field of transmission of information is an inevitable stage in the development of procedures for state border crossing by railway transport.

8. Article 18 of the new draft Convention *establishes a new obligation of the Parties to provide recording of information on delayed trains* or cars at the railway check points and transmit the said information to the parties concerned, which will subsequently make an analysis and propose measures to reduce delays.
9. *Peculiarities* are established for *the transmission of information on passengers, luggage and load-luggage to be relayed by the carriers to the bodies of State control authorities, which is confidential and protected by legislation of the State that is a Party*.
10. In accordance with the new draft Convention, the Contracting Parties *shall endeavour to facilitate the procedure for issuing visa*.
11. The final clauses of the new draft Convention *envisage the possibility of participation of regional organisations for economic integration as Parties*.
12. *More detailed work was carried out at the procedure for settlement of disputes*.

13. In view of intensive dynamics of the development in the field of transport, the draft Convention *includes a new Article specifying the procedure for making amendments in it.*

14. The new Convention *includes an individual Article allowing its Parties to conclude bilateral agreements* that will supplement and clarify the provisions of the Convention.

For example, the parties may arrange in additional agreements a particular procedure for interaction of railway transport staff and officials of border control and customs service, engaged in conducting border and customs control, which will serve as the basis for further fruitful cooperation. Whereby, the Convention will remain as the framework basis for organisation of both the said cooperation and any other interaction between the parties in the case of state border crossing.

Based on the abovementioned information, *a CONCLUSION* can be made that the proposed draft Convention *represents itself in full measure as a self-consistent international agreement that takes into account all technologies applied and is prepared for practical implementation in modern realities.*

CONVENTION

on facilitation of **State** border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail

The States that are parties to this Convention, hereinafter referred to as the Parties, *Recognizing* the need to facilitate and expedite the crossing of borders in the international carriage by rail of passengers, luggage, and load-luggage, while maintaining the effectiveness of State control,

Given the importance of the safety, convenience, comfort and high quality of passenger service,

Noting the importance of reducing the running times of trains to increase the competitiveness of rail transport,

Have agreed as follows:

Chapter 1

Definitions General

Article 1

For the purposes of this Convention, the following main terms are used:

- a) “rail transport infrastructure” (hereinafter “infrastructure”) means the technical facilities, including the rails and other structures; railway stations; electrical power supply equipment; communication networks; signaling, centralized control and blocking systems; information systems; traffic control system; and other systems ensuring the operation of such buildings, constructions, installations, devices and equipment;
- b) “international carriage by rail” means the carriage of passengers, luggage and load-luggage by rail between two or more railway stations in different States, as well as transportation between the stations of a single State passing through the territory of another State or States;
- c) “passenger” means a physical person that makes a journey by train using a valid travel document (or ticket), or that has a travel document (or ticket) and is boarding or disembarking at a station, including a passenger platform directly prior to or immediately after travel;
- d) “consignor” means a physical person or a legal entity that transfers luggage or load-luggage for carriage and that is stated in the carriage document as the consignor as the consignor of the luggage or load-luggage;
- e) “carrier” means a legal entity whose business is the carriage of passengers, luggage and load-luggage and enters with a passenger (or consignor) into a contract of carriage pursuant to which it undertakes to deliver the passenger, the passenger’s luggage and load-luggage from the railway station of departure to the railway station of destination;
- f) “railway checkpoint” means an area within the province of a railway station, either at or in the vicinity of the border, or another specifically designated area ~~in the direct vicinity of the border~~, with appropriate infrastructure and where the State

control, operational and administrative procedures required for the **cross-border** passing of passengers, luggage and load-luggage by rail are carried out;

g) “hand luggage” means passenger belongings carried by embarked passengers and whose carriage is included in the cost of travel, not exceeding the standards established for weight and dimension, and whose safekeeping is the responsibility of the passenger;

h) “luggage” means items or objects belonging to a passenger and accepted by a carrier for carriage in a luggage wagon of a passenger train;

h/1) “load-luggage” means items accepted by the carrier from a physical person or a legal entity in accordance with the procedure for the carriage in a luggage wagon of a passenger train established by legislation of **the Party in whose territory such items are accepted for carriage**;

j) “infrastructure manager” means a legal entity authorized in accordance with the legislation of **the Party** to provide services to legal entities **and (or)** physical persons for the use of infrastructure **on the territory of such a Party**;

k) “staff” means employees of the carrier or other organizations aboard the train engaged in passenger service en route;

l) “State control” means activities carried out by authorized State bodies and officials of the Parties when passengers, luggage or load-luggage cross the **State** border as part of international passenger transport by rail, with the purpose of preventing, detecting and suppressing violations of **legislation of the Party**, including border, Customs, **veterinary, quarantine, sanitary, phytosanitary controls** and other types of State control established in accordance with legislation of the Parties;

m) ~~“special control” means veterinary, health and quarantine, phytosanitary and other types of State control requiring the use of special forms and methods of implementation.~~

Article 2

This Convention regulates the following matters in relation to international carriage by rail:

a) organizing cooperation between the Parties and coordinating the work done by State control authorities to facilitate border crossing **in international carriage by rail**;

b) defining a set of measures to agree upon conditions for implementing State control, **including those** for harmonizing the requirements with regard to **issuance** of documents used during State control, and for State control procedures;

c) improving the efficiency of railway checkpoints and reducing the time needed for State controls at the borders;

d) organizing coordination of the work of representatives from the Parties’ border, Customs bodies and other State authorities implementing State controls at the borders and of the **Parties’** carriers **concerned**.

Article 3

1. The Parties may conclude bilateral agreements for achieving this Convention's objectives and developing practical mechanisms for its application.
2. The conditions of bilateral agreements **may complement** and/or **clarify** the provisions of this Convention and may not contravene its provisions.
3. The provisions of this Convention shall not prevent the application of greater facilities which the Parties grant or may wish to grant either by unilateral provisions or by virtue of bilateral or multilateral agreements provided that such facilities do not impede the application of this Convention's provisions.
4. **This Convention shall not affect shall not violate the rights and obligations resulting from other international agreements signed by the Parties to the Convention in which the Parties participate or from their membership in regional organisations for economic integration.**

Article 4

1. The Parties shall cooperate in order to ensure the greatest possible uniformity of requirements for documentation and/or procedures in all areas related to border crossing in international carriage by rail.
2. The Parties shall make every effort to use international standards, new technologies and best practices to improve the performance of railway checkpoints and facilitate the procedures in all areas connected with border crossing in international rail traffic.
3. The Parties express their willingness to exchange information on practical achievements in improving the efficiency of railway checkpoints and in reducing the time required to carry out State border control **at borders**.

Article 5

The State control is performed in the following places:

- a) **aboard the train in the stop time at the border station;**
- ~~a~~ b) at the railway checkpoint (or checkpoints) of the Party;
- ~~b~~ c) **on the train during its ~~run~~ movement between the Parties' railway checkpoints or between railway stations of the Parties;**
- e ~~d~~ partially at the railway checkpoint and partially when the train is moving.
- ~~d) — in the train during its movement between stations of the Parties.~~

Article 6

The State control authorities of the Parties shall carry out agreed upon actions for the control of passengers' documents and their hand luggage, luggage and load-luggage.

The location(s) for carrying out State control, its manner, type, procedure and timing standards for handling State control, the passenger data to be transferred to State control authorities shall be established by legislation of the Parties and separate bilateral or multilateral agreements.

The Parties, taking into account the possibilities for effective State control, may agree that international passenger trains may travel through railway checkpoints without stopping.

The Parties may, *through separate bilateral and multilateral agreements*, agree on nonstop passing of the *passenger train in international railway traffic* through the railway checkpoints, *including the passenger train passing from and into the territory of one Party by transit via the territory of another Party or other Parties*, in view of a possibility *to provide effective and sufficient* State control *of passengers, luggage and load-luggage*.

Responsibility for monitoring compliance with the prohibition on embarking/disembarking of passengers *as well as* the loading/unloading of luggage *(load-luggage) when the passenger train is en route with its nonstop passing through the railway checkpoints and (or) its transit passing via the territory of another Party or other Parties* shall rest with the carrier.

Article 7

1. When carrying out State control, the Parties shall take measures to prevent disruptions in the train schedule.

2. The Parties' infrastructure managers shall promptly exchange information on the train schedule of *passenger* trains and its changes, composition of sets of *international* passenger trains *implementing international railway transportation* as well as cancellation and/or allocation of *such* trains for subsequent notification to the State control authorities, according to the Parties' legislation and separate bilateral or multilateral agreements.

Article 8

The Parties shall seek to simplify procedures for exchange of documents and information by means of use of electronic data exchange systems when they organise and implement international railway transportation within the scope foreseen by legislation of the Parties and bilateral or multilateral agreements.

Chapter 2 Border crossing by *staff officials* of State control authorities and by staff engaged in international carriage by rail

Article 9

~~Authorized Officials of State control bodies shall be exempted from passport and visa formalities when performing State control activities in international carriage by rail. Their presentation of official documents authorizing them to carry out State control shall be considered sufficient to authenticate their identity, position and power.~~

Officials of State control bodies shall be exempted from the visa border crossing formalities when they perform State control activities in international carriage by rail in accordance with the documents that are specified by the Parties.

Article 10

1. The Parties shall seek to facilitate visa procedures and procedures for the crossing of the Parties' borders by train crew members, service staff and employees of border stations of the Parties participating in **organisation and implementation** of international carriage by rail in accordance with positive experience in this field with regard to all applicants.

The border crossing procedure shall be determined for the persons listed in this paragraph, including specifications of official documents confirming their status, on the basis of bilateral agreements.

~~2. When *State* control is carried out, the officials of the border or Customs authorities or of other authorities carrying out *State controls of the Parties* at border (or transfer) stations shall, in the performance of their official duties, cross the State border presenting *the documents stipulated by the Contracting Parties* for their citizens.~~

Chapter 3

Organisation of State control

Article 11

To ensure the orderly and prompt performance of State control, the Parties shall endeavour to observe the following minimum requirements for Railway checkpoints opened for international **passenger railway** transportation:

- a) availability of buildings (premises), facilities, equipment and technical means that make it possible to carry out appropriate, daily, round the clock State control at the Railway checkpoints;
- b) technical equipment of Railway checkpoints and adjacent areas must facilitate State control without disrupting the schedule of **passenger** trains;
- c) availability of equipment, devices, information systems and communications systems that make it possible to exchange preliminary information, including that on passenger trains approaching the Railway checkpoints;
- d) availability of a required number of skilled personnel of the carriers, **infrastructure managers**, ~~border, Customs and other State~~, **officials** of **State control** authorities at railway checkpoints, taking into account the volume of traffic. ~~The Railway checkpoints where special controls are carried out, and they must be provided with the necessary technical means;~~
- e) carrying and traffic capacities **of railway points** must satisfy traffic volumes ~~and adjacent areas~~;
- f) Railway checkpoints must be equipped with technical facilities and information technology and communications systems ~~enabling them~~ **to make it possible** to receive and apply information on technical inspection and verification of rolling stock, which are carried out by ~~official~~ **State control** authorities and ~~railways~~ **carriers** within their remit prior to the arrival of rolling stock at such ~~stations~~ **checkpoints**, unless the Parties implement alternative measures to perform such functions.

Article 12

~~In order to confirm the authority of the State control officials, they shall wear uniforms and/or insignia, as established by legislation of the Party, which the Parties shall provide one another with information about them in a timely manner.~~

Chapter 4

Carrying out State control

Article 12

1. Information on passengers, luggage, and load-luggage crossing the border shall well in advance (as technologically feasible) be transmitted by the carriers to State control authorities (including digital format). During this transmission, restrictions contained in national legislation *of the Party* ~~or in international agreements that are binding on one of the Parties~~ shall be taken into consideration.

~~2. If information to be transmitted has confidentiality (State, commercial, banking or other) safeguarded by legislation of the Party, the train crew members, officials of State control authorities and service staff shall undertake obligations not to disclose such information to third parties without the written consent of the person who owns such information or who has the right to use and dispose of it. in accordance with bilateral agreements.~~

2. The State control authorities of the Parties shall exchange information in order to improve the effectiveness of the State control and to select in advance the forms ~~of State control~~ *it will take*.

Article 13

1. The State control may be carried out jointly by the State control authorities of the Parties in accordance with bilateral or multilateral agreements.

2. The *joint* State control may be carried out both in the territory of a Party and aboard the train when it moves ~~between Railway checkpoints of the Parties~~ in accordance with the provisions provided for in this Convention.

3. The Parties shall agree on the procedures and place(s) where the jointly held State control shall be carried out by concluding separate bilateral or multilateral agreements.

Article 14

1. Without regard to the places where State control may be carried out, the list of which appears in paragraph 5 (2), if such control does not require the use of *special stationary applied* forms and methods ~~of special control~~ and the Parties have not determined specificity of State control to be conducted by a bilateral agreement, the State control shall be carried out directly in the cars of the train.

2. The carrier shall take measures to make passengers stay at their places as assigned by their travel documents (or tickets) until the end of the State control procedures.

3. When it is necessary to use *special stationary applied* forms and methods of *State control* ~~special control~~ as established by legislation *of the Party*, such control ~~may~~ shall be conducted in specially designated and equipped premises at railway checkpoints ~~and/or in train cars~~.

4. To ensure safety of passengers, the carrier shall take all possible measures to prevent unauthorized tampering with the structure of the car. In the event that such tampering is discovered, the carrier's ~~service personnel~~ *staff* shall inform officials of State control authorities of the Party in whose territory the train is running.

Article 15

1. The State control aboard the *passenger* train, when it moves between railway checkpoints of the Parties, shall be conducted in accordance with separate bilateral or multilateral agreements between *such* Parties.

2. In the absence of a separate agreement governing the sequence with which the *forms* of State control *in accordance with paragraph 1 of this Article* are to be performed in the territory of one Party, the following ~~procedure~~ *sequence* shall be applicable:

- a) Customs control and other types of control conducted by State control authorities of the Party of exit;
- b) border control conducted by State control authorities of the Party of exit;
- c) border control conducted by State control authorities of the Party of entry;
- (d) Customs control and other types of control conducted by State control authorities of the Party of entry.

3. Bilateral agreements may determine ~~other procedure~~ *other sequence* of State control and see way for officials of State control authorities of one Party to stay in the territory of another Party.

4. *The officials of* State control authorities of the Party of entry shall carry out State control only in those parts of the train where State control has already been performed by *the officials of* State control authorities of the country of exit.

Article 16

1. The Parties shall ensure compliance with standard timeframes set by bilateral agreements to perform technological operations on reception and transfer of *passenger* trains at the Railway checkpoints, ~~including for all types~~ *execution* of State control, and shall *on a permanent basis* seek to reduce such standard timeframes by improving operations, introducing new technologies and constantly modernizing them. ~~The Parties shall take measures to reduce the standard times in coming years.~~

2. The Parties shall carry out registration of *passenger* trains or cars delayed at Railway checkpoints and transmit this information to the Parties involved, which shall subsequently analyze the situation and propose measures to reduce layovers.

Article 17

1. The Parties shall, on the basis of separate agreements, determine Railway checkpoints located either near the border or in the interior of one of the Parties, in the territory of which the State control is carried out in accordance with Article 5, paragraph 2 (a) of this Convention.

2. In all cases where such Railway checkpoints are determined, separate agreements shall specify the area in which the State control officials of the Parties shall have the right to inspect passengers crossing the Parties' border in any direction as well as their hand luggage, luggage and load-luggage.

3. The area where officials of State control authorities of the Parties have the right to inspect passengers shall typically include:

- (a) buildings, facilities and platforms relating to the Railway checkpoint;
- (b) passenger trains.

Article 18

The Parties shall endeavour to arrange for State control to be carried out on passenger trains en route in accordance with Article 5, paragraph 2 (b) of this Convention, in particular in the following cases:

- (a) When the duration of the non-stop run of such trains before and after the Railway checkpoint of each of the bordering Parties is sufficient to carry out State control procedures;
- (b) When international traffic is carried out with passenger trains that are equipped with automatic gauge changeover systems;
- (c) When high-speed rolling stock is used.

Article 19

The Parties shall endeavour to arrange for State control to be carried out partially at a railway checkpoint and partially during the run of a passenger train in accordance with Article 5, paragraph 2 (c) of this Convention where the duration of the non-stop run of the train before or after the Railway checkpoint is sufficient to carry out the State control in the territory of only one of the Parties.

Chapter 5

Final clauses

Article 20 ~~Signature, ratification, acceptance, approval and accession~~

1. This Convention, which shall be deposited with the Secretary-General of the United Nations, shall be open to the participation of all States.

2. States may become Parties to this Convention:

- a) by depositing an instrument of ratification, acceptance or approval upon its signing; or
- b) by depositing an instrument of accession.

3. This Convention shall be open for signing at the United Nations Office at Geneva by all States from ... until ..., inclusive.

4. From ... it shall also be open for their accession.
5. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 21

Entry into force

1. This Convention shall enter into force three months after the date on which five States have deposited their instruments of ratification, acceptance, approval or accession.
2. After the five States have deposited their instruments of ratification, acceptance or approval or accession, this Convention shall enter into force for all subsequent Parties three months after the date of the deposit of their instruments of ratification, acceptance or approval or accession.
3. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.
4. Any such instrument deposited after an amendment has been accepted in accordance with the procedure in article 27 *of this Convention*, but before it has entered into force, shall be deemed to apply to the Convention as amended on the date when the amendment enters into force.

Article 22

Denunciation

1. Any Party may denounce this Convention by so notifying the Secretary-General of the United Nations.
2. Denunciation shall take effect six months after the date of receipt by the Secretary-General of the notification of denunciation.

Article 23

Termination

If, after the entry into force of this Convention, the number of States which are Parties is reduced to less than five for a period of twelve consecutive months, the Convention shall cease to have effect from the end of the twelve-month period in question.

Article 24

Settlement of disputes

1. Any dispute between two or more Parties concerning the interpretation or application of this Convention shall, so far as possible, be settled by negotiation between them or by other means of settlement.
2. Any dispute between two or more Parties concerning the interpretation or application of this Convention which cannot be settled by the means indicated in paragraph 1 of this article shall, at the request of one of the Parties, be referred to an arbitration tribunal composed as follows: each party to the dispute shall appoint an arbitrator, and these arbitrators shall appoint another arbitrator, who shall be the

chair. If, three months after receipt of a request, one of the Parties has failed to appoint an arbitrator or if the arbitrators have failed to elect the chair, any of the Parties may request the Secretary-General of the United Nations to appoint an arbitrator or the chair of the arbitration tribunal.

3. The decision of the arbitration tribunal established under the provisions of paragraph 2 **of this Convention** shall be final and binding on the parties to the dispute.

4. The arbitration tribunal shall determine its own rules of procedure.

5. The arbitration tribunal shall take its decisions by majority vote and on the basis of the treaties existing between the parties to the dispute and general international law.

6. Any controversy which may arise between the parties to the dispute as regards the interpretation and execution of the award may be submitted by any of **such** parties for judgment to the arbitration tribunal which made the award.

7. Each party to the dispute shall **individually** bear the costs of its own appointed arbitrator and of its representatives in the arbitral proceedings; the costs of the chair and the remaining costs shall be borne in equal parts by the parties to the dispute.

Article 25 Reservations

1. Any Party may, at the time of signing, ratifying, adopting or approving this Convention or acceding to it, declare that it does not consider itself bound by Article 25, paragraphs 2 to 7 of this Convention. Other Parties shall not be bound by these paragraphs in respect of any Party which has entered such a reservation.

2. Any Party may, having entered a reservation as provided for in paragraph 1 of this Article, at any time withdraw such a reservation by notifying the Secretary-General of the United Nations.

3. Apart from the reservations set out in paragraph 1 of this Article, no reservation to this Convention shall be permitted.

Article 26 Procedure for amending this Convention

1. This Convention, including its annexes, may be amended upon the proposal of any Party in accordance with the procedure specified in this Article.

2. A proposed amendment shall enter into force with respect to all Parties depositing an instrument of ratification, acceptance or approval of the amendment on the thirtieth day following the date on which two third of the Parties have deposited their instrument of ratification, acceptance or approval **of the amendment**. Afterwards, the amendment will enter into force with respect to any other Party on the day that such Party will deposit its instrument of ratification, acceptance or approval of the amendment.

3. If an objection to the proposed amendment has been communicated in accordance with paragraph ~~3~~ 2 of this Article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.

Article 27

Requests, communications and objections

The Secretary-General of the United Nations shall inform all Parties and all States of any request, communication or objection under Article 27 *of this Convention*, and of the date on which any amendment enters into force.

Article 28

Review Conference

After this Convention has been in force for five years, any Party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing the Convention, indicating the proposals which should be dealt with by the conference. In such a case:

- (i) The Secretary-General of the United Nations shall notify all the Parties of the request and invite them to submit, within a period of three months, their comments on the original proposals and such other proposals as they may wish the conference to consider;
- (ii) The Secretary-General of the United Nations shall also communicate to all the Parties the text of any other proposals made and shall convene a review conference if, within a period of six months from the date of that communication, not less than one third of the Parties notify him of their concurrence with the convening of such a conference;
- (iii) However, if the Secretary-General of the United Nations considers that a review proposal may be regarded as a proposed amendment under Article 27, paragraph 1 *of this Convention*, he may, by agreement with the Party which has made the proposal, implement the amendment procedure provided for in Article 27 *of this Convention*, instead of the review procedure.

Article 29 Notifications

In addition to the notifications and communications provided for in Articles 28 and 29 *of this Convention*, the Secretary-General of the United Nations shall notify all States of the following:

- (a) signing, ratification, acceptance, approval and accessions under Article 21 *of this Convention*;
- (b) the dates of entry into force of this Convention in accordance with Article 22 *of this Convention*;
- (c) denunciation of this Convention under Article 23 *of this Convention*;
- (d) termination of this Convention under Article 24 *of this Convention*;
- (e) reservations made under Article 26 *of this Convention*.

Article 30

Certified true copies

After ... the Secretary-General of the United Nations shall transmit two certified true copies of this Convention to each of the Parties and to all States which are not Parties.

Done at _____ in _____ copies, on _____, the English, Russian and _____ texts being equally authentic.

In Witness whereof, the undersigned plenipotentiaries, being duly authorized thereto, have signed this Convention.

<i>The table of remarks to the text of new Convention on facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail</i>	
<i>The remarks made by the EEC of the EEU are taken into account in the text of draft Convention, except for the remarks to Article 13, correlating with the proposals made by the Ministry of Foreign Affairs of Russia as well as remarks to the final clauses of draft Convention. Comments on the remarks made by the EU are indicated in the table.</i>	
<i>Content and the mover of the remark</i>	<i>Comments made by the informal working group</i>
<p><u>Article 1</u> Harmonising with the Convention on Harmonisation (1). Contradiction with Article 18 (f) Harmonising or clarifying the term “special controls” (k, 1)</p> <p><i>Mover – EU</i></p>	The remark has been accepted.
<p><u>Article 2</u> Due to unclear relations between paragraphs (a) and (d), paragraph (d) is, possibly, redundant. As an option, if paragraph (d) remains, the phrase “the carriers of the Parties” must be replaced with the phrase “...the carriers concerned”.</p> <p><i>Mover – EU</i></p>	The remark has been accepted.
<p><u>Article 3</u> A disconnection clause must be made to make sure that the EU laws remain in force on the EU external borders: “This Convention shall not violate the rights and obligations resulting from other international agreements signed by the Parties to the Convention or from their membership in regional organisations for economic integration. The need for bilateral and administrative agreements in addition to the Convention must be limited.</p> <p><i>Mover – EU</i></p>	The remark has been accepted.
<p><u>Article 4 (3)</u> Harmonising the phrase “controls at borders” with the definition in Article 1.</p> <p><i>Mover – EU</i></p>	The remark has been considered. Paragraph 3 contains a definition of “state control” corresponding to the one specified in Article 1, paragraph 1.
<p><u>Article 5 (1)</u> Redundancy</p>	The remark has been accepted.

<p><i>Mover – EU</i></p>	
<p><u>Article 6</u> Controls of people at the border may not be cancelled by multilateral or bilateral agreements between the States, including the case of transit. The Shengen agreement is applied for the EU external border crossing: international agreements may regulate only how controls are carried out without covering the subject matter of such controls. This issue must be clarified in all the respective provisions of the agreement.</p>	<p>The remark has been accepted. Paragraph 4 was added to Article 3, which stipulates that the Convention shall not affect the rights and obligations resulting from other international agreements signed by the Parties to the Convention or from their membership in regional organisations for economic integration.</p>
<p><i>Mover – EU</i></p> <p><u>Article 7</u> Time frame must be agreed not at state level but at level of various bodies of state authorities.</p>	<p>The remark has been accepted. Paragraph 3 has been deleted.</p>
<p><i>Mover – EU</i></p> <p><u>Article 8+13</u> Use of paper and digital data exchange must be clarified hereafter.</p>	<p>The remark has been considered. Article 8 has been reworded.</p>
<p><i>Mover – EU</i></p> <p><u>Article 9</u> Visa formalities are within the remit of the EU, therefore the EU must be included in the agreement. Any reference to “official documents” featuring the staff as inspection officers implies the creation of new documents proving one’s identity that are not recognised by the current legislation of the EU. Therefore, such a reference must be deleted.</p> <p><i>Mover – EU</i></p>	<p>The remark has been accepted. Paragraph 4 was added to Article 3, which stipulates that the Convention shall not affect the rights and obligations resulting from other international agreements in which the Parties to the Convention participate or from their membership in regional organisations for economic integration.</p>

<p><u>Article 10+11</u> Harmonising with Annex 9, Article 3 of Harmonisation Convention.</p> <p><i>Mover – EU</i></p>	<p>The remark has been accepted. Annex 9 to the International Convention on the Harmonization of Frontier Controls of Goods regulates the freight traffic. The International Convention on the Simplification and Harmonization of Customs procedures specifies in its Article 3 that its provisions shall not prevent the use of national legislation. Paragraph 4 was added to Article 3, which stipulates that the Convention shall not affect the rights and obligations resulting from other international agreements signed by the Parties or from their membership in regional organisations for economic integration.</p>
<p><u>Article 12</u> Redundant</p> <p><i>Mover – EU</i></p>	<p>The remark has been accepted. Article 12 has been deleted.</p>
<p><u>Article 13</u> It's not quite clear what the indicated bilateral agreements must be about. As this paragraph reads, the workers (staff, officials) shall not disclose shall not disclose information safeguarded by legislation of the Party and nothing else. In view of the above-mentioned, it is proposed to exclude the indicated reference to bilateral agreements.</p> <p><i>Mover – EEC</i></p>	<p>The remark has been considered. Corrections were made in Article 13.</p>
<p><u>Article 14</u> The Parties may decide on a bilateral basis how to carry out controls. For establishing the joint border control points, the Shengen agreement prescribes the EU countries concerned to have consultations on the issue of compatibility of the agreement with the EU legislation prior to concluding the bilateral agreement on joint border control points with the neighbouring third country.</p> <p><i>Mover – EU</i></p>	<p>The remark has been accepted. Paragraph 4 was added to Article 3, which stipulates that the Convention shall not affect the rights and obligations resulting from other international agreements signed by the Parties to the Convention or from their membership in regional organisations for economic integration.</p>
<p><u>Article 15 (1)</u> Contradiction with Article 14(1)</p> <p><i>Mover – EU</i></p>	<p><i>The remark has been considered.</i> Corrections were made in Article 15.</p>
<p><u>Article 16</u></p>	<p>The remark has been accepted.</p>

<p>The provisions of paragraph 3 must be established by default. Paragraph 4 is redundant, if the procedure established by bi-lateral agreements, there is no need to mention how to follow the control. Paragraph 5 is redundant.</p> <p><i>Mover – EU</i></p>	<p>Remarks do not conform to the updated version of the convention.</p>
<p><u>Article 17</u> Redundant (repetition of Article 7(3))</p> <p><i>Mover – EU</i></p>	<p>The remark has been accepted. Paragraph 3 of Article 7 has been excluded.</p>

Comments on draft new Convention following the results of the Consultative meeting

1. The OTIF and the European Union (hereafter, EU) notice the frequent use of references to bilateral agreements in draft Convention.

Comment

In view of specificity of regulation of the border crossing issue and taking into account the prospects of application of the convention in the Eurasian transport routes, draft Convention is not aimed at establishing the completely standard requirements for passing State control.

Draft Convention is called to become a legal basis to reduce and systematize bilateral agreements in the field of border crossing for railway passenger traffic with the purpose of organising the coordinated work of State control authorities and increasing the overall performance of railway border checkpoints.

The prevailing action status of the provisions laid down in draft Convention, provided for in paragraph 2 of Article 3 of draft Convention, forms a framework for legal regulation in the field of border crossing for international railway passenger traffic in the states participating in the Convention.

It has also to be noted that certain provisions of draft Convention have established standard requirements for passing State control, applied when additional agreements are not available (for example, paragraph 2 of Article 16).

Moreover, the Convention assigns the specific role of regional organisations for economic integration (paragraph 4 of Article 3) in the legal regulation framework of border crossing for international railway passenger traffic. The provisions of draft Convention as the Parties' bilateral agreements supplementing it must not affect the rights and obligations of the Parties resulting from other international agreements in which the Parties participate or their membership in regional organisations for economic integration.

2. The EU and the OTIF indicate in their remarks the possibility of application of the rules of “soft law” for regulation of the issue of facilitation of border crossing procedures for international railway passenger traffic.

Comment

Draft Convention is aimed at creating a standard regulation framework in the field of border crossing for international railway passenger traffic. In view of the specific relevance and public nature of issues of border and Customs control, the

rules of “*soft law*” do not present themselves effective to achieve this goal, since they do not provide specific obligations.

The application of the rules of “*soft law*” will not allow us to systematize bilateral agreements, in particular in view of the participation of States in regional organisations for economic integration, taking into account the necessity of application of the Convention provisions on the Eurasian routes, and will not create the required benefit for the development of international railway passenger traffic, because it will always imply the necessity of transformation of “*soft law*” into rules of law.

Summarizing, it has to be noted that the simplification of border crossing transport procedures as well as the elimination of “nonphysical” barriers for border crossing implies the necessity for development of legal regulation in the field of international railway traffic by means of application of international legal instruments specifying minimum binding requirements for railway border checkpoints and common procedures for conducting State control.

3. According to the remark of the EU, the EU countries have not expressed their interest in joining this Convention.

Comment

Representatives from the Republic of Poland take part on a regular basis in the meetings of Informal working groups of experts (in Warsaw, in July 2016, April 2017) and support draft Convention.

4. According to the remark of the European Union, draft Convention must be agreed with other current international documents, for instance the Harmonization Convention (the Convention on Harmonization of Frontier Controls of Goods, 1982).

Comment

The Informal working groups earlier prepared the comparative analysis of current international agreements (Convention to facilitate the crossing of frontiers for passengers and baggage carried by rail of 1952, International Convention on the Simplification and Harmonisation of Customs procedures of 1973, International Convention on the Harmonisation of Frontier Controls of Goods of 1982) and draft Convention.

The structured analysis of these documents and draft Convention has showed defects available in legal regulation of procedures for State border crossing by international railway traffic of passengers, luggage and load-luggage in the following main aspects:

1. Kyoto Convention:

- specifies common principles for conducting Customs control, regulating practically all Customs issues;
- the main subject of regulation includes issues on cross-border movement of goods;
- the provisions are worded not in the form of direct effect but in the form of principles intended to elaborate, on their basis, the concrete rules of regulation of various procedures;
- methods and places for conducting State control are not specified in detail, requirements for border checkpoints are not provided for, visa issues are not regulated.

One can make from the analysis of the Kyoto Convention *the conclusion* that the mechanisms of implementation of the border control principles established in the Convention, being an expression of will of the States, are implemented within the framework of other international agreements.

2. Harmonization Convention:

- it creates an efficient legal basis for the implementation of international carriage of goods;
- it covers all the imported, exported and transit goods when one or several sea, air or land borders are crossed.

One can make from the analysis of the Harmonization Convention *the conclusion* that its rules sufficiently regulate the carriage of goods but they are adapted to passenger traffic.

3. Convention of 1952:

- unlike other documents, it has not been reviewed since its signature and it became irrelevant long ago;
- it does not meet the current realities of interaction of States in implementation of international railway traffic;
- it contains certain legal archaisms, for instance obligation to provide telephone communications between border stations, the visa issues are not regulated;
- it does not envisage the application of new technologies and best practices, thus limiting the possibilities of development of international passenger traffic;

- the list of participants include only the European countries, which does not make it possible to apply it for long-distance transit traffic, the possibility of participation of regional organisations is not available.

One can make from the analysis of the Convention of 1952 *the conclusion* that it became irrelevant long ago and is non-operational de facto.

The proposed draft Convention is historically based on the provisions of 1952, whereby it systematically reforms them in view of the provisions of the Kyoto Convention and Harmonization Convention. *Draft Convention is a fully independent international agreement taking into account all the practices used and is prepared for implementation in today's realities.*