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## **Economic Commission for Europe**

Inland Transport Committee

**Working Party on Customs Questions affecting Transport**

**147th session**

Geneva, 10-13 October 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**

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

**Transmitted by the Organization for Cooperation between Railways**

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27 September 2017

To: UNECE ITC Secretariat  
All OSJD member countries  
Railways of OSJD member countries  
Cc: DG MOVE, DG TAXUD, OTIF, FPC JSC

Ladies and gentlemen,

The OSJD Committee requested in letters No.I-4/240 dated 14 July 2017 and I-4/241 dated 17 August 2017 all the OSJD member countries and Railways of OSJD member countries to submit their comments and proposals with regard to draft Convention "On facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail" to the UNECE ITC Secretariat and OSJD Committee. The replies have been received by the OSJD Committee from the Azerbaijani Railways CJSC (AZD), Byelorussian Railway, State Enterprise "Railway of Moldova", Ulan-Bator Railway JSC and Uzbek Railways JSC.

On 15 September 2017 the OSJD Committee received a letter from the Ministry of Transport of the Russian Federation (No.9-1205 dated 14 September 2017), which supported the updated redaction of the text of draft Convention. In its letter, the Ministry confirms its readiness to provide further promotion of the work on the document in accordance with the "road map" adopted by the UNECE ITC. Therefore, we hereby send you the draft Convention as of 14 September 2017, please find it attached.

The OSJD Committee would kindly request all the OSJD member countries and Railways of OSJD member countries to take participation in the 147<sup>th</sup> session of the WP.30 that will take place in the Palace of Nations in Geneva on 10-13 October 2017, at which a final decision will be taken on the development of draft Convention, and please submit your comments and proposals with regard to draft Convention to the UNECE ITC Secretariat and OSJD Committee.

We hope that all the participants in the said 147<sup>th</sup> session of the WP.30 will support this draft Convention.

Please find attached draft Convention on 9 pages.

With best regards to you,

Tadeusz Szozda,

Chairman of OSJD Committee

## CONVENTION

### On facilitation of 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

#### 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 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, 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<sup>1</sup>) "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 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.

## **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;

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 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 the rights and obligations resulting from other international agreements 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.

#### **Article 5**

The State control is performed in the following places:

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

#### **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 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 officials of State control authorities and by staff engaged in international carriage by rail**

#### **Article 9**

Officials of State control bodies shall be exempted from the 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**

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.

## **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 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, officials of State control authorities at railway checkpoints, taking into account the volume of traffic;
- e) carrying and traffic capacities of railway points must satisfy traffic volumes;
- f) railway checkpoints must be equipped with technical facilities and information technology and communications systems to make it possible 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 Parties implement alternative measures to perform such functions.

## **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 carrier to State control authorities (including digital format). During this transmission, the restrictions contained in legislation of the Party transmitting the information shall be taken into consideration. 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.
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 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 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 of this Convention, 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.
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 stationary applied forms and methods of State control as established by legislation of the Party, such control shall be conducted in specially designated and equipped premises at railway checkpoints.
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 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 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 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, 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.

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 (b) 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 (c) 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 (d) 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**

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

1. 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.

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

3. From ... it shall also be open for accession.

5. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

### **Article 21**

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**

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**

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**

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**

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**

1. Any State Party may propose an amendment to this Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall notify the States Parties of any proposed amendments and he will at the same time request them to inform him if they stand for holding a conference of the Parties to consider the proposed amendments and take decisions on them.

If not less than one third of States Parties have, within four months following the date of such a notification, spoken for the affirmative to conduct such a conference, the Secretary-General shall convene a conference under the aegis of the United Nations. Any amendment that is approved by a two thirds majority of States Parties being present and taking part in the vote shall be submitted by the Secretary-General to the General

Assembly of the United Nations for approval and then to all States Parties for adoption.

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 a two third of the Parties deposited their instruments 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. The amendment shall be binding on those States Parties only which have adopted it.

#### **Article 27**

After this Convention has been in force for five years, any Party may, by notification sent 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 consent to a call 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 26, 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 26 of this Convention, instead of the review procedure.

#### **Article 28**

The Secretary-General of the United Nations is the depository of this Convention.

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.