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Internationales  
Eisenbahntransportkomitee

International Rail  
Transport Committee

# **Unified railway law: Harmonization of liability rules (Part 2)**

UNECE Group of Experts on Unified Railway  
Law

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# Summary




- Background



- CIM/SMGS Consignment note manual:  
GLV-CIM/SMGS and Appendix 22 SMGS



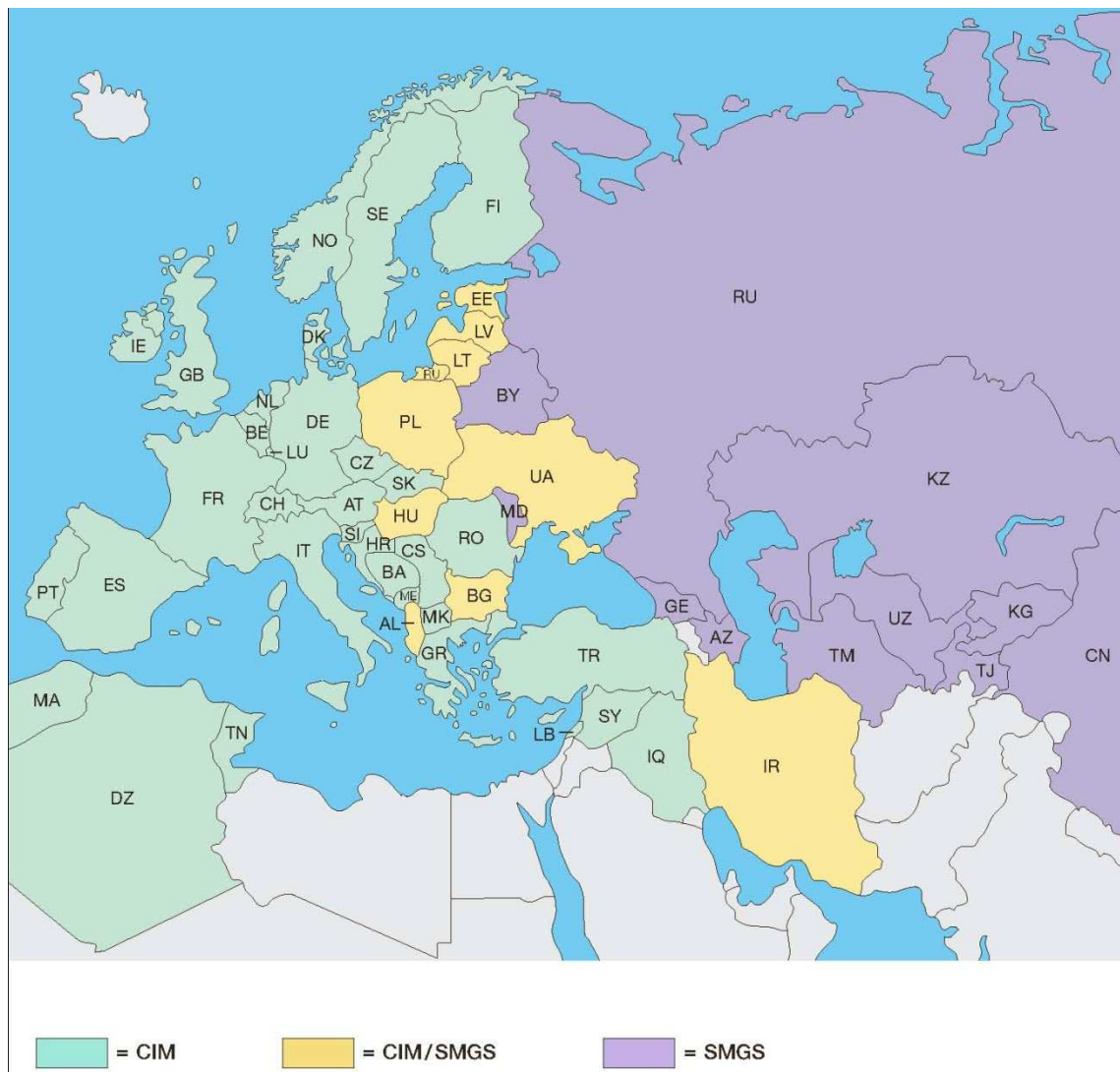
- Standard principles for CIM/SMGS liability



- Special Conditions for CIM/SMGS carriage by  
rail (SC CIM/SMGS)

# Areas in which the CIM and/or the SMGS apply

As at: 1 July 2010



# Duality of the international railway law

## **CIM (Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM – Appendix B to COTIF)**

Consensual contract

Contractual freedom within the bounds set by Article 5 CIM

Design of the consignment note within the competence of the railways

Several models of carriage and liabilities

## **SMGS (Agreement concerning International Freight Traffic by Rail)**

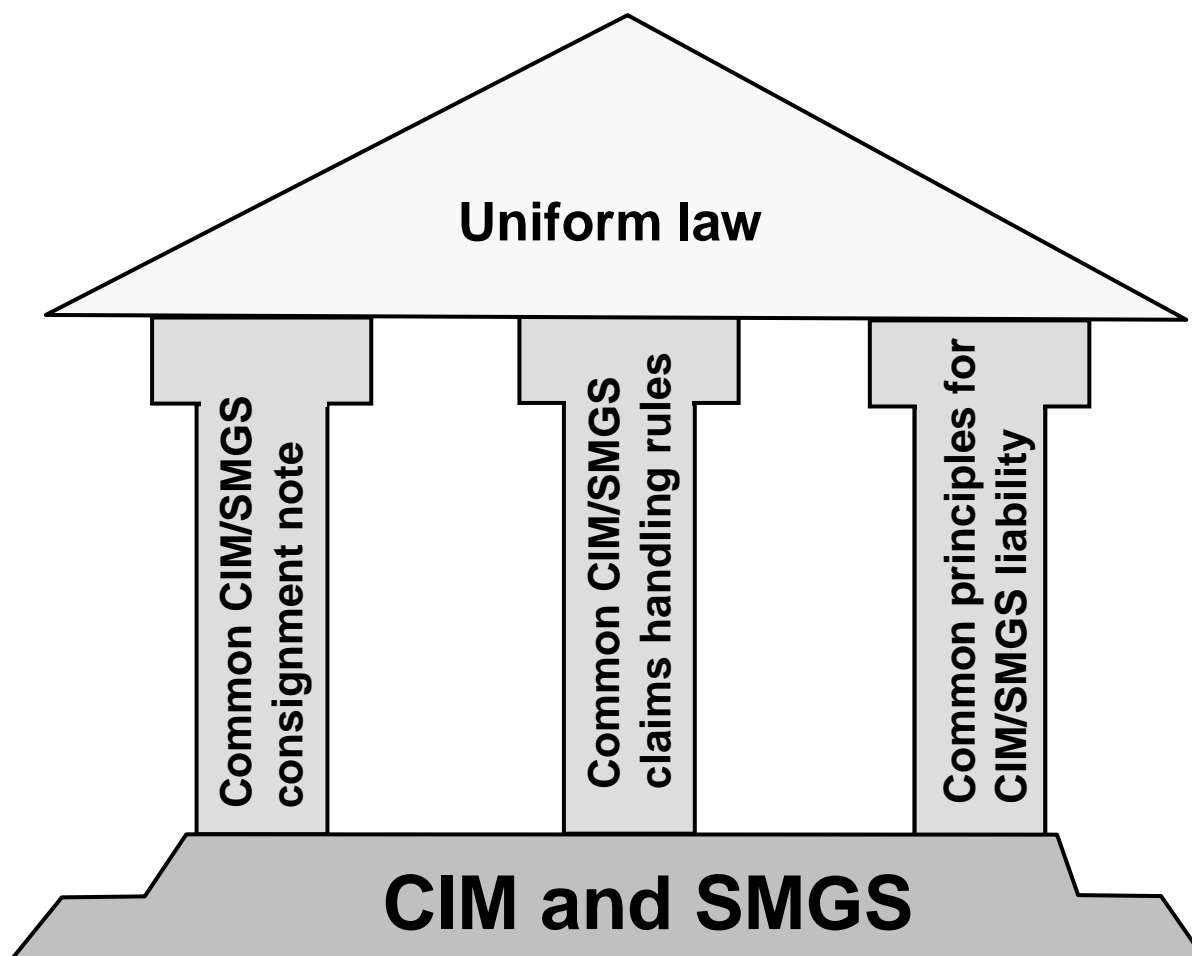
Formal contract

Obligation to carry

Consignment note is an appendix to the SMGS

No substitute carriage and individual liability of the railways

# CIT/OSJD project to make the CIM and SMGS legally interoperable



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# **CIM/SMGS Consignment note manual: GLV-CIM/SMGS and Appendix 22 SMGS**

- Two contracts of carriage
- One CIM/SMGS consignment note as the sum of the CIM and SMGS consignment notes (also available in electronic form)
- Two liability regimes – the CIM regime and the SMGS regime
- CIM/SMGS rules for procedures and documents
  - CIM/SMGS formal report (point 12.2 and Appendices 8 and 8.1)
  - presumption in accordance with Article 28 § 3 CIM and Article 22 § 10 SMGS
  - CIM/SMGS claims (point 12.3)
  - departments of CIM carriers and SMGS railways to which claims must be sent (Appendix 9)
  - payment of compensation (point 12.4)
- CIM/SMGS Liability Manual
  - principles of CIM/SMGS liability
  - provisions for liability in the CIM and SMGS which are identical or similar

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# Standard principles for CIM/SMGS liability

- Two contracts of carriage
- One consignment note with a reference to the SC CIM/SMGS (likewise for electronic consignment notes)
- Standardised liability system for loss of and damage to goods: more customer-friendly than the CIM (Article 5) and compatible with the SMGS
  - joint and several liability
  - standardised principles for liability
  - grounds for relief aligned with the CIM and SMGS
  - limits to compensation
  - sharing of compensation between the carriers/railways
- Liability for exceeding the transit period in accordance with the CIM and SMGS
- Assertion of rights in accordance with (points 12.3 and 12.4 of the CIM/SMGS manual)

# Summary



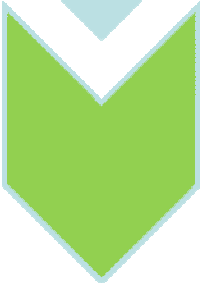
- Background



- CIM/SMGS Consignment Note Manual:  
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# Special Conditions for CIM/SMGS carriage by rail: based on International Private Law (IPR)

- One contract of carriage
- One consignment note
- One liability regime
- Standard conditions of carriage
- Standard procedures to assert rights?
- **Framework contract:** for participating railways
- **Applicable law:** compatible with mandatory provisions of the national law applicable
- **Precondition:** assent by the participating railways
- **Legal basis:** International Private Law (IPR)

# Special Conditions for CIM/SMGS carriage by rail: Treaty between states

- One contract of carriage
- One consignment note
- One liability regime
- Standard conditions of carriage
- Standard procedures to assert rights
- **Multilateral convention:** for participating states
- **Applicable law:** mandatory statutory provisions
- **Precondition:** ratification by the participating states
- **Legal basis:** International Law