



Economic and Social Council

Distr.: General
4 April 2017
English
Original: Russian

Economic Commission for Europe

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**

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

Transmitted by the Eurasian Economic Commission

Introduction

In the annex to the present document, the secretariat reproduces without any change the comments and remarks of the Eurasian Economic Commission on the draft convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail.

* The changes contained in the annex are shown in **bold italics**, deletions are shown in ~~strikethrough~~ **bold italics**. Comments by the Eurasian Economic Commission (EEC) are shown in *italics*.



Annex

Convention on the 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 Definitions

** Comment by the Eurasian Economic Commission (EEC):*

Articles 2-8 do not contain terms with definitions. Hence the title of Chapter 1, “Definitions”, does not accurately reflect its content. It is therefore proposed that consideration be given to changing the title of Chapter 1 to “General provisions”.

Furthermore, titles appear only from article 21 onwards. It is therefore proposed, for the purposes of ensuring a standard approach in the text of the draft Convention, either to omit the titles of those articles, or to include a title for each article.

Article 1

For the purposes of this Convention, the following 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; signalling, 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 who makes a journey by train using a valid travel document (or ticket), or who has a travel document (or ticket) and is boarding or disembarking at a station, including on a passenger platform directly prior to or immediately after travel;

(d) “consignor” means a physical person or legal entity who submits luggage or load-luggage for carriage and is indicated in the transport document as the consignor of the luggage or load-luggage;

(e) “carrier” means a legal entity involved in the carriage of passengers, luggage and load-luggage that enters with a passenger (or consignor) into a contract of carriage pursuant to which it undertakes to deliver the passenger, luggage checked by the passenger or load-luggage from a point of departure to a destination;

(f) “railway checkpoint” means an area within a railway station, either at or in the vicinity of a border, or another specifically designated area in the direct vicinity of the border, with appropriate infrastructure and where State control and the operational and administrative procedures required for the *cross-border* passage by rail of passengers, luggage and load-luggage are carried out;

(g) “hand luggage” means passenger belongings carried by embarked passengers and whose carriage is included in the fare, not exceeding standard established weights and dimensions, and whose safekeeping is the responsibility of the passengers;

(h) “luggage” means passenger belongings (items) accepted by the carrier for carriage in the luggage wagon of a passenger train;

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

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

(l) “staff” means employees of the carrier or of other organizations engaged in passenger service en route;

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

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

** EEC comment: State customs and border controls also allow the use of “special forms and methods of implementation”. This does not preclude conducting document controls. Given that fact, it would perhaps not appear necessary to define any type of State control as “special controls”. It is proposed that all types of State control be included in the definition of the term “State control”.*

Article 2

This Convention regulates the following 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~~; (** EEC comment: Given the wording of the first paragraph of this article, which applies to the whole article, it is proposed that these words be omitted, as a duplication.*)

(b) Defining a range of measures to agree upon conditions for implementing State control, **including on** harmonizing requirements for the documentation used therein and for State control procedures;

(c) Improving the efficiency of railway checkpoints and reducing the time needed for State border controls; (*EEC comment: delete extra hyphen in Russian text*)

(d) Organizing coordination of the work of representatives of the Parties’ border, customs and other State authorities implementing State border controls and of the Parties’ carriers.

¹ Note from the secretariat: the letter (i) is not used in legal texts in order to avoid confusion with the Roman numeral (i). The numbering of the paragraphs has therefore been corrected.

Article 3

1. The Parties may conclude bilateral agreements with the aim of achieving the Convention's objectives and developing practical mechanisms for its application.
2. The conditions of the bilateral agreements *shall may* complement and/or clarify the provisions of this Convention and shall not be at variance with its provisions.
3. The provisions of this Convention shall not prevent the application of greater facilities which the Contracting 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 the Convention's provisions.

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 crossings 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 to facilitate the procedures in all areas connected with border crossings 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 controls.

Article 5

1. The following types of State control may be performed during the crossing of the Parties' borders:
 - (a) Border controls;
 - (b) Customs controls;
 - (c) Other types of State control established by the legislation of the Parties.
2. State control shall be carried out at the following locations:
 - (a) At a railway checkpoint (or checkpoints) of a Party;
 - (b) On the train during its run between Parties' railway checkpoints;
 - (c) Partially at the railway checkpoint and partially during the train's run;
 - (d) On the train during its run between stations of a Party.

Article 6

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

The place (places) where State controls are carried out, the manner, type, procedures and timing standards for the handling of State controls and the passenger data to be transferred to State control authorities shall be established by the legislation of the Parties and separate bilateral or multilateral agreements.

The Parties may, taking into account the possibilities for effective *and adequate* State control *of passengers, luggage and load-luggage*, agree *in separate bilateral or multilateral agreements* that ~~international~~ passenger trains *providing international rail transportation* may travel through railway checkpoints without stopping, *including between the stations of a single Party when passing through the territory of another Party or Parties*.

~~*The Parties may agree, through separate agreements, that a passenger train may run without stopping and without border, customs and other types of State control established by the national legislation of the Parties if the passenger train is transiting from the territory of one Party through the territory of another.*~~

Responsibility for monitoring compliance with a prohibition on embarking/disembarking of passengers *and* the loading/unloading of baggage (*or load-luggage*) *during travel of a passenger train without stopping through railway checkpoints and/or transit through the territory of another Party or other Parties* shall rest with the carrier.

Article 7

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

The Parties' infrastructure managers shall promptly exchange information on the *passenger* train schedule and changes thereto, the composition of *international* passenger trains *providing international rail transportation* and the cancellation and/or designation of *such* trains, for subsequent notification to the State control authorities, in accordance with the legislation of the Parties and separate bilateral or multilateral agreements.

The Parties shall ensure compliance with the time frames established for carrying out State control in their legislation and in separate bilateral or multilateral agreements and shall seek to reduce such time frame standards by simplifying and improving the methods, technologies and technical means used to carry out State control.

Article 8

The Parties shall, when dealing with each other, seek to reduce the use of paper documents and to simplify documentation procedures, using electronic data interchange systems to exchange information, within the scope foreseen by the legislation of the Parties *concerned* and bilateral or multilateral agreements.

Chapter 2

Border crossing by ~~members of train crews~~, State control officials and staff engaged in international carriage by rail

Article 9

Officials of State control bodies shall be exempted from 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 authority.

Article 10

1. The Parties shall seek to facilitate visa procedures and procedures for the crossing of the Parties' borders for train crews, staff and employees of Parties' border (or transfer) stations who are engaged in *the organization and conduct of* international carriage by rail, in accordance with positive experience in this field with regard to all applicants.

The border crossing procedure for the persons listed in paragraph 1 of the present article, including specifications of official documents confirming their status, shall be determined on the basis of bilateral agreements.

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

Chapter 3

Providing for 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 used for international ~~passenger rail~~ (* EEC comment: Given article 1 of the current draft Convention) transport:

- (a) The provision of appropriate buildings (premises), facilities, equipment and technical means to permit daily, round-the-clock State controls at railway checkpoints;
- (b) The provision of technical equipment at railway checkpoints and adjacent sectors to facilitate State control without disrupting the *passenger* train schedule;
- (c) The provision of the necessary equipment, devices, information and communications systems to allow for the exchange of advance information, including concerning passenger trains approaching railway checkpoints;
- (d) At railway checkpoints, the presence must be ensured of the required numbers of skilled personnel of the carriers *responsible for the infrastructure and officials of the border, customs and other State control authorities*, taking into account the volume of traffic ~~Railway checkpoints where special controls are carried out must be provided with the necessary technical means;~~ (* EEC comment: the second sentence does not concern staff at railway checkpoints. The existence of technical means is already provided for in subparagraph (a). Given that, it is proposed that the sentence be deleted.)
- (e) The through-put and traffic capacities *of railway checkpoints* and those of adjacent sectors must be sufficient for the volume of traffic;
- (f) The railway checkpoints must be equipped with technical means and information technology and communications systems enabling them to receive and utilize technical assessments and rolling stock verification data kept by *official State control authorities and railways carriers* within their spheres of competence prior to the arrival of the rolling stock ~~at such stations checkpoints~~, if the Parties do not 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 the legislation of the ~~Parties concerned~~, in respect of which *the Parties* shall provide one another with information in a timely manner.

Chapter 4

Carrying out State control

Article 13

1. Information on passengers, luggage and load-luggage crossing the border shall be transmitted by the carrier to the State control authorities, including electronically, well in advance (as far as technologically feasible). In the transmission of such information, restrictions contained in *national legislation of the Party concerned* or in international agreements that are binding on one of the Parties shall be taken into consideration.
2. If the information contains State, commercial, banking and/or other secrets protected by the legislation of a Party, the members of the crew, officials of the State control authorities and staff shall undertake 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 line with bilateral agreements.~~ (* EEC comment: It is not clear what such bilateral agreements should concern. The provisions of the present paragraph indicate that workers (crew members and officials) may not disclose secrets protected

under the Party's legislation without written consent, and nothing more. Given that, it is proposed to delete the reference to bilateral agreements).

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

Article 14

1. State control may be carried out jointly by Parties' State control authorities in accordance with bilateral agreements between the Parties.

2. *Joint* State control may be carried out either in the territory of one Party or on the train during its run between the railway checkpoints of the Parties, in accordance with the provisions of this Convention.

3. The Parties must agree on the place (places) and procedure for joint State controls through the conclusion of separate bilateral or multilateral agreements.

Article 15

1. Without regard to the places where the State control may be carried out, the list of which appears in article 5 (2), if such control does not require the use of *special stationary* forms and methods ~~of special control~~ and the Parties have not defined the particularities of conducting State control in a bilateral agreement, it shall be carried out directly in the wagons of the train.

2. The carrier shall take measures to ensure that passengers remain in the places assigned by their travel documents (or tickets) until the end of the State control procedures.

3. Where necessary, *special stationary* forms and methods of ~~special State~~ control, as established by the legislation of the ~~Partiesy concerned~~, ~~may shall~~ be used in specially designated and equipped premises at railway checkpoints ~~and/or in train wagons~~.

4. In order to ensure passenger safety, the carrier shall take all possible measures to prevent unauthorized tampering with the structure of the wagon. In the event that such tampering is discovered, the carrier's service personnel shall inform the officials of the State control authorities of the Party in whose territory the train is travelling.

Article 16

1. State control on a *passenger* train during its run between railway checkpoints of the Parties shall be conducted in accordance with separate bilateral or multilateral agreements between the Parties *concerned*.

2. In the absence of a separate agreement on the sequence in which *types of* State control are to be conducted *in accordance with paragraph 1 of the present article* in the territory of one Party, the following ~~procedure sequence~~ shall be ~~applicable used~~:

- (a) Customs and other checks by the State control authorities of the country of exit;
- (b) Border control by the State control authorities of the country of exit;
- (c) Border control by the State control authorities of the country of entrance;
- (d) Customs and other checks by the State control authorities of the country of entrance.

3. Bilateral agreements may define *a different order* for the performance of State controls, including the possibility of officials of the *State control* authorities of one Party being on the territory of another Party.

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

Article 17

1. The Parties shall ensure compliance with the standard time frames set by bilateral agreements for the performance of technical operations for the reception and transfer of *passenger* trains at railway checkpoints ~~*including for all types and the performance*~~ of State control, and shall *constantly* seek to reduce such times by improving operations, introducing new technologies and constantly updating 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 wagons delayed at railway checkpoints and transmit this information to the Parties involved, which shall subsequently analyse the situation and propose measures to reduce layovers.

Article 18

1. The Parties shall determine, on the basis of separate agreements, the railway checkpoints either near the border or in the interior of one of the Parties where the State control is carried out in accordance with article 5 (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, their hand luggage and luggage and load-luggage crossing the Parties' border in any direction.

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

- (a) The buildings, facilities and platforms of the railway checkpoint;
- (b) Passenger trains.

Article 19

The Parties shall endeavour to arrange for State control to be carried out in accordance with article 5 (2) (b) of this Convention during the run of passenger trains, especially 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 the State control procedures;
- (b) When the international traffic is carried out with passenger trains having variable gauge systems;
- (c) When high-speed trains are used.

Article 20

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 (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 provisions

Article 21

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 and/or *associations of States*.
2. States *and/or associations of States* may become Parties to this Convention:

- (a) By depositing an instrument of ratification, acceptance or approval after signature; or
 - (b) By depositing an instrument of accession.
3. This Convention shall be open for signature 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 22

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, 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, 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 the 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 23

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 24

Termination

If, after the entry into force of this Convention, the number of States *and/or associations of States* which are Parties is reduced to less than five for a period of 12 consecutive months, the Convention shall cease to have effect from the end of the 12-month period in question.

Article 25

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 the present article* 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 the parties *concerned* for judgment to the arbitration tribunal which made the award.
7. Each party to the dispute shall *independently* 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 26

Reservations

1. Any Party may, at the time of signing, ratifying, accepting or approving this Convention or acceding to it, declare that it does not consider itself bound by article 25 (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 having entered a reservation as provided for in paragraph 1 of this article may at any time withdraw such 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 27

Procedure for amending this Convention

1. This Convention, including its annexes, may be amended upon the proposal of a Party by the procedure specified in this article.
2. An amendment shall come into force for each Party that has deposited its instrument of ratification, acceptance or approval of the amendment within a period of 30 days from the date on which two thirds of the Parties have deposited their instruments of ratification, acceptance or approval *of the amendment*. After that date, the amendment shall enter into force for any other Party on the date on which that Party deposits 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 of this article (*EEC comment: check that this reference is correct*), the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.

Article 28

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 the Convention*, and of the date on which any amendment enters into force.

Article 29

Review conference

After the 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 or her 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 (1) *of the Convention*, he or she may, by agreement with the Party which has made the proposal, implement the amendment procedure provided for by article 27 *of the Convention*, instead of the review procedure.

Article 30 **Notifications**

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

(a) Signatures, ratifications, acceptances, approvals and accessions under article 21 *of the Convention*;

(b) The dates of entry into force of this Convention in accordance with article 22 *of the Convention*;

(c) Denunciations under article 23 *of the Convention*;

(d) The termination of this Convention under article 24 *of the Convention*;

(e) Reservations under article 26 *of the Convention*.

Article 31 **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 __, in the __ language, the English, Russian and __ texts being equally authentic.

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