FACILITATION OF INTERNATIONAL RAIL TRANSPORT

Progress of the common consignment note (CIM/SMGS) project

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Transport interoperability CIM/SMGS

Dr. Erik Evtimov, Legal Advisor & Project Coordinator
Scope of CIM und SMGS
## Differences in law

<table>
<thead>
<tr>
<th><strong>CIM</strong></th>
<th><strong>SMGS</strong></th>
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<tbody>
<tr>
<td>Consensual contract</td>
<td>Formal contract</td>
</tr>
<tr>
<td>Contractual freedom</td>
<td>Obligation to establish tariffs and to carry</td>
</tr>
<tr>
<td>Consignment note in the competence of RUs</td>
<td>Consignment note regulated in SMGS itself</td>
</tr>
<tr>
<td>Joint and several liability</td>
<td>Singular liability</td>
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Differences in organisations

<table>
<thead>
<tr>
<th>OTIF</th>
<th>OSShD</th>
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<tbody>
<tr>
<td>Bern</td>
<td>Warsaw</td>
</tr>
<tr>
<td>Since 1890</td>
<td>Since 1956</td>
</tr>
<tr>
<td>42 Member States</td>
<td>27 Member States</td>
</tr>
<tr>
<td>Only Member States</td>
<td>States and railways</td>
</tr>
<tr>
<td>Majority</td>
<td>Unanimity</td>
</tr>
<tr>
<td>German/French/English</td>
<td>Russian and Chinese</td>
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Competence for the consignment note

CIM

Article 6 § 8 CIM: “The international associations of carriers shall establish uniform model consignment notes in agreement with the customers’ international associations and the bodies having competence for customs matters …”

SMGS

Article 7 SMGS: The Consignment note is established in the SMGS itself (Annex 12.1 SMGS) – in competence of the OSJD
The CIT

200 railway undertakings

Association under Swiss law located in Bern

Tasks:
1. Implementation of COTIF for practical use
2. Standardisation of contractual relationships
3. Representation of the interests of members to authorities and other associations
CIT/OSJD Project: Legal Interoperability CIM/SMGS

Phase 1:
A common CIM/SMGS consignment note

Phase 2:
A unique claim handling mechanism

Phase 3:
A single Eurasian Rail Transport Law
Consignment note CIM/SMGS

- "Sum" of the CIM- and SMGS-consignment notes
- Based on the United Nations Layout Key for Trade Documents
- Recognition as
  1. customs document
  2. letter of credit
Practical use of the CIM/SMGS consignment note

Traffic movements:

- More than 20 traffic axes in 4 TEN Corridors
- Examples:
  - Germany – Russia (via Poland and Belarus)
  - Germany – Ukraine
  - Czech Republic – Russia / Ukraine
  - Rumania – Russia
- Save time – 16 hours per train
- Save money – 40€ per wagon

Further improvements

- Using one CIM/SMGS consignment note and wagon list and container list
- Extending the scope of the CIM/SMGS consignment note
Use of CIM/SMGS Consignment Note
Extending the scope of the CIM/SMGS consignment note

- On the land bridge between Europe and Asia/China
- In Transit through Mongolia
- In Central Asia and Kazakhstan
- On TransSib
- On further traffic axes in the Russian Federation
- Pilot transportations
- ERS - From Shenzhen (China) to Pardubice (Czech Republic)
Further improvements in the Phase 1: Wagon and Container lists CIM/SMGS
Electronic consignment note CIM/SMGS

• Legal basis for the electronic exchange of consignment note data:
  – Article 6 § 9 CIM: based on functional equivalence
  – Article 7 § 14 SMGS: based on an agreement between the carrier and the customer

• The following provisions are still being worked on:
  – Functional specifications
  – Legal specifications
  – Technical implementation – Raildata/OSJD/CIT
Phase 2: Standardisation of CIM/SMGS liability regimes

Objective:

- Harmonised provisions for the 2 legal relationships:
  - customer – RU
  - RU – RU

In practice:

- Guidelines to the liability regimes of CIM and SMGS
- Common CIM/SMGS formal report
- Legal presumption following reconsignment
- Common CIM/SMGS claims handling rules
Common CIM/SMGS formal report and legal presumption

- **Formal report CIM/SMGS**
  - used by the RU when it sees lost or damage

- **Legal presumption** (28 CIM / 23 § 10 SMGS new)
  - when there is no formal report on the damage
  - advantage for the consignee: the last carrier must handle his claim

- **Claims handling rules CIM/SMGS**: work in progress
Phase 3: Two legal areas one single law

Eurasian Rail Transport Law

SMGS/SMPS

COTIF
Uniform law for CIM/SMGS traffics

Uniform law CIM/SMGS

Common consignment note CIM/SMGS
Common formal report CIM/SMGS
Claims handling rules CIM/SMGS

CIM and SMGS
Corridors Europe - Asia
Single legal regime

1. CIM and SMGS as basis and starting point
2. Attention paid to the different legal cultures
3. Freedom for higher liability standards

Legal interoperability from the Atlantic to the Pacific

Thank you for your attention!