Transport interoperability CIM/SMGS

UN Economic Commission for Europe
Inland Transport Committee
Working Party on Rail Transport (SC.2)
Geneva, 18-20 November 2009

Dr. Erik Evtimov
Senior Legal Advisor & Project Coordinator

Scope of the CIM and SMGS
State of 1. January 2009
### Differences in law

<table>
<thead>
<tr>
<th>CIM (Uniform Rules concerning the Contract of International Carriage of Goods by Rail - Appendix B to COTIF)</th>
<th>SMGS (Agreement on International Goods Transport by Rail)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consensual contract</td>
<td>Formal contract</td>
</tr>
<tr>
<td>Contractual freedom</td>
<td>Obligation to set and publish tariffs and to carry</td>
</tr>
<tr>
<td>Consignment note design within the competence of RUs</td>
<td>Consignment note defined in SMGS itself</td>
</tr>
<tr>
<td>Joint and several liability</td>
<td>Individual liability</td>
</tr>
</tbody>
</table>

### Differences in organisations

<table>
<thead>
<tr>
<th>OTIF (Intergovernmental Organisation for International Carriage by Rail)</th>
<th>OSJD (Organisation for Cooperation between Railways)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bern</td>
<td>Warsaw</td>
</tr>
<tr>
<td>Since 1985</td>
<td>Since 1956</td>
</tr>
<tr>
<td>43 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>
</tr>
</tbody>
</table>
CIT/OSJD Project: Legal Interoperability CIM/SMGS

Phase 1:
Common CIM/SMGS consignment note

Phase 2:
Standardised claims handling mechanism

Phase 3:
Single Eurasian Rail Transport Law

Common CIM/SMGS consignment note

- “Sum” of the CIM- and SMGS-consignment notes
- Based on the United Nations Layout Key for Trade Documents
- Recognition as:
  - Customs document
  - Letter of credit
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
- Electronic consignment note CIM/SMGS:
  √ Functional specifications
  √ Legal specifications
  √ Technical specifications
  △ Practical Implementation – the participating railways (support Raildata / OSJD / CIT)

Common CIM/SMGS formal report, legal presumption and claims handling rules

- CIM/SMGS formal report (Annex 8, 8.1)
  ▶ used by the RU when it sees loss or damage
- Legal presumption (28 § 3 CIM / 23 § 10 SMGS)
  ▶ when there is no formal report of loss or damage
  ▶ advantage for the consignee: the last carrier must handle his claim
- Claims handling rules (Point 12.3)
- Payment of compensation rules (Point 12.4)
Practical use of the CIM/SMGS consignment note

- Traffic movements: More than 30 traffic axes in 4 TEN Corridors
- Examples:
  - Germany – Russia (via Poland and Belarus)
  - Germany – Ukraine
  - Czech Republic / Slovak Republic – Russia / Ukraine
  - Romania – Russia
- The CIM/SMGS consignment note:
  - Saves time – 40 minutes per wagon
  - Saves money – 30-40 € per consignment note
  - Improves the overall legal certainty reducing possible red tapes

Further improvements:
- Using one CIM/SMGS consignment note plus a wagon list or container list
- Extending the scope of the CIM/SMGS consignment note

Use of the CIM/SMGS consignment note

[Map showing using of the CIM/SMGS consignment note]
The Kaliningrad Declaration

1. Extension of the CIM/SMGS Consignment note to
   - Kazakhstan, Mongolia and China
   - International ferry links
2. Completion of the work on the electronic CIM/SMGS Consignment note
3. Training and spread of information
4. Further Improvements of the legal framework
5. Evaluation of different proposals through CIT and OSJD

Extending the scope of the CIM/SMGS consignment note

- On the land bridge between Europe and Asia/China
- In transit through Mongolia
- On the TransSib
- In the Central Asia and on the Silk railroad to the ports
- Ferry connections on the Baltic and Black Sea between the different ports and hinterland connections
- Starting with test transportations (Mongolian Vector)
Global supply chain from railway prospective

Phase 3: Two legal areas one single law

Eurasian Rail Transport Law

COTIF

SMGS/SMPS
Uniform law for CIM/SMGS traffics

Uniform CIM/SMGS law

Common CIM/SMGS consignment note
CIM/SMGS claims handling rules
CIM/SMGS liability

CIM and SMGS